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5 M/047/0090

6 Earth Energy Resources

7 PR Springs Mine Informal Conference
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16 TAKEN AT: Department of Natural Resources
17 1594 West North Temple, Room 1060
18 Salt Lake City, Utah

19 DATE: Tuesday, July 27, 2010

20 TIME: 2:03 p.m. to 4:21 p.m.

21 REPORTED BY: Michelle Mallonee, RPR
22

23 ATKINSON BAKER COURT REPORTING
24 JOB #A406FEA
25

RECEIVED

AUG 31 2010

Div. of Oil, Gas & Mining

APPEARANCES

DIVISION OF OIL, GAS AND MINING:

John R. Baza, Director and Hearing Officer
Dana Dean, Associate Director, Mining
Paul Baker, Minerals Program Manager
Leslie Heppler, Environmental Scientist
Tom Munson, Environmental Scientist
Lynn Kunzler, Environmental Scientist
Jim Springer, Public Information Officer

ASSISTANT ATTORNEYS GENERAL:

Steven F. Alder - Division Attorney
Fred Donaldson - Division Attorney

1 FOR EARTH ENERGY RESOURCES:

2 A. JOHN DAVIS, ESQ.
3 HOLME ROBERTS & OWEN, LLP
4 299 South Main Street
Suite 1800
Salt Lake City, Utah 84111-2263

5 BARCLAY CUTHBERT, Vice President of Operations, Earth
6 Energy Resources

7 KARLA KNOOP, JBR Environmental Consultants

8
9 ALSO PRESENT:

10 JOHN WEISHEIT, Conservation Director, Living Rivers

11 JULIANA WILLIAMS, Peaceful Uprising

12 ASHLEY ANDERSON, Peaceful Uprising

1 Tuesday, July 27, 2010; Salt Lake City, Utah

2 P R O C E E D I N G S

3 2:03 p.m.

4 - - -

5 THE HEARING OFFICER: Folks, my name is John
6 Baza. I'm the director of the Division of Oil, Gas and
7 Mining, and I'm also the hearing officer for this
8 informal conference we're having today. I'm going to
9 stand for a minute, just so everyone can hear me. And
10 this is to let the individuals know, who want to speak,
11 that you need to clearly identify yourself for the court
12 reporter, and speak up because we don't have a sound
13 system in this room. So she may find it hard to hear
14 what you are saying if you don't project a little bit.

15 So let me get started with this. This is kind
16 of our second time doing an informal conference on this
17 particular matter. And we did something similar to this
18 back in November -- not nearly so many people.

19 The informal conference that we're doing is one
20 that's prescribed by rule. And when we do a minerals
21 permit, the -- after that permit has been analyzed and a
22 decision is made by the Division, it then goes out for a
23 public comment period and is noticed up in the paper.
24 And during that 30-day period after we've made a
25 decision, there's an opportunity for people to send in

1 comments to us to indicate that they want a hearing of
2 this nature, and we respond to that.

3 And that's exactly what happened in this case,
4 is that there was a public notice. We offered a period
5 of time for public comment. We did receive such a public
6 comment requesting that we hold this informal conference.

7 Now, I will tell you that the rules we follow in
8 that regard might be a little bit different than what
9 you've seen in other public hearings. In other words,
10 this is not a hearing to just take public comment. I
11 think the period of time we had for that is prescribed by
12 rules. But having said that, we're not here to tell
13 anybody, You can't speak, or, You can't provide us with
14 information that's necessary in our analysis of the
15 permit.

16 We want to be as inclusive as possible in
17 getting information that's going to help us make as good
18 a decision as possible.

19 We're going to follow a format here, which was
20 kind of laid out at the first hearing that we had. And
21 in that, I'm going allow the Division to have first say.
22 Since they are the one who analyzed the permit, they are
23 the ones who made the decision on the record, we're going
24 to give the Division a chance to speak first and provide
25 us with some background in how the permit came to be.

1 Following that, we have the letter of request
2 for the hearing from a group, Living Waters, Peaceful --

3 MR. WEISHEIT: Living Rivers.

4 THE HEARING OFFICER: Living Rivers, excuse me.

5 And I'm going to give them a chance to kind of
6 express why they sent in the letter and why they wanted
7 the hearing and what their concerns are.

8 Following that, we would normally give time to
9 the applicant, which is Earth Energy Resources, to
10 respond to that. And we would just generally go from
11 there and see if there was anything else that needs to be
12 considered or questions that need to be asked and answers
13 obtained at that point.

14 Just so you know, even though I'm the director
15 of the Division, I'm as impartial as I can be in this
16 matter. I have not been involved in the analysis by the
17 Division, in terms of issuing that permit. I know about
18 as much of this matter that we're hearing today as the
19 letter that was received from Living Rivers and the
20 notice of hearing that we've published for this matter.

21 So having said that, Division, I'm sure you have
22 a copy of the letter that was sent by Living Rivers. Has
23 the applicant received a copy of that letter, and do you
24 know what it contains?

25 MR. DAVIS: Yes, we have.

1 THE HEARING OFFICER: So, you know, I don't know
2 that there's a big need to rehash a lot of that. But at
3 least make sure that if you have points that you want to
4 address related to that letter, let's get it in the
5 information that we can use to analyze.

6 Yes, ma'am.

7 MS. FRANKLIN: (Inaudible.)

8 THE HEARING OFFICER: Ma'am, you need to stand
9 up and say your name so that the court reporter can hear
10 you.

11 MS. FRANKLIN: My name is Naomi Franklin. I'd
12 like to know the extent of the comment period and to
13 where comments may be made.

14 THE HEARING OFFICER: Okay. I hope the Division
15 is going to address that in some of their statements.
16 But as I understand it, the comment period for this was
17 the 30 days after we initially published notice. So that
18 comment period is over and done with. This hearing is
19 not a hearing to accept additional public comment. This
20 hearing is to address the concerns expressed by Living
21 Rivers in the letter that they sent to us. And that's
22 specifically what we're here for.

23 Now, again, as I said in the beginning, we're
24 not here to shut down valuable input into this. But at
25 the same time, I don't want this to become a free for all

1 where we just start throwing out our comments. I think
2 there is an opportunity to speak through those
3 represented at the table here. And I think that probably
4 you are going to hear from them things that are on your
5 mind, anyway.

6 But if there's something that doesn't get
7 addressed, if there's some point that is missed that is
8 valuable to our analysis of this, we certainly want to
9 hear it. And at the appropriate point in the meeting,
10 I'll ask if there's any input of that nature.

11 Does that sound reasonable to the parties at the
12 table? Okay.

13 Do you have any comment on the proposed format
14 that I've laid out?

15 Yes, Steve.

16 MR. ALDER: You might indicate the opportunities
17 for appeal and decision, and that sort of thing -- or we
18 will. I will.

19 THE HEARING OFFICER: Okay, if you would.

20 MR. ALDER: I will.

21 THE HEARING OFFICER: I'll tell you this: I'm
22 not a lawyer, okay. I'm an engineer by background, and I
23 administer the affairs of the Division. But I may have
24 to go out and seek legal counsel in order to make a
25 decision on this hearing that we're having today. But as

1 Steve points out, there is an opportunity for appeal on
2 this. And normally that appeal, once I render a
3 decision, is going to go to our Board of Oil, Gas and
4 Mining. They meet once a month. There are set
5 procedures on how to file a request for a Board hearing.
6 And those are all laid out in regulation.

7 But Steve, you can certainly address that.

8 Yes.

9 MS. WILLIAMS: Will there be any time limits
10 on -- between the different parties?

11 THE HEARING OFFICER: You know, I think we ought
12 to discuss that as part of your statements and what we
13 decide here. There is no hard and fast rule to an
14 informal conference. What we're doing today isn't guided
15 by regulation, other than it says you need to have one of
16 these meetings. So basically what we do today, we'll
17 decide it as we go. So whatever an appropriate time
18 frame is that we can all agree to would be what I would
19 hope for.

20 Maybe for the benefit of the court reporter, can
21 we just define who is going to be the principal
22 spokesperson for each of the parties?

23 The Division, it will be...

24 MR. ALDER: Yeah. Let me introduce myself. I'm
25 Steve Alder. I'm the attorney for the Division, and I

1 work at the attorney general's office. The Division
2 today will be -- we have three people -- well, we
3 actually have all the staff that analyzed this
4 application here.

5 Paul Baker is to my immediate right. He's in
6 charge of the minerals program. Dana Dean is in charge
7 of the mining program for the Division of Oil, Gas and
8 Mining. And they will introduce the members of their
9 staff that reviewed this appeal, as we go forward. And
10 so I will speak just as an introductory matter and then
11 turn the time over to the Division.

12 THE HEARING OFFICER: Okay.

13 And for Living Rivers, could you introduce
14 yourself and who is going to be speaking.

15 MR. WEISHEIT: Yes. My name is John Weisheit.
16 That is spelled W-E-I-S-H-E-I-T. And it's pronounced
17 Weisheit. It's a German name. I am the conservation
18 director of Living Rivers. And I am the Colorado
19 Riverkeeper of the Waterkeeper Alliance. And I live in
20 Moab, Utah. And I would like to introduce Juliana
21 Williams. Also -- well, he's both a Moab and a Salt Lake
22 City person -- this is Ashley Anderson.

23 THE HEARING OFFICER: Okay. Glad to meet you.

24 And for the applicant.

25 MR. DAVIS: Thank you, Mr. Baza.

1 My name's John Davis. I'm an attorney here in
2 Salt Lake with Holme Roberts & Owen. I represent Earth
3 Energy Resources. To my left is Mr. Barclay Cuthbert.
4 Do you want me to spell that? B-A-R-C-L-A-Y,
5 C-U-T-H-B-E-R-T. And Mr. Cuthbert is the vice president
6 of operations for -- I'll call it EER, rather than go
7 through Earth Energy Resources each time.

8 Then to my right is Karla Knoop. And that last
9 name is spelled K-N-O-O-P. And Karla is with JBR
10 Environmental, an environmental consulting firm here in
11 Salt Lake City. And she'll be testifying on some of the
12 technical aspects of our NOI.

13 THE HEARING OFFICER: Okay. And I'm looking for
14 Vicki. Is Vicki in here? Vicki Southwick? No. Okay.

15 I think we have a sign-up sheet going around.
16 And does that sign-up sheet ask for phone and email
17 information?

18 MR. KUNZLER: Name, address, phone, and email.

19 THE HEARING OFFICER: Okay. So as that goes
20 around, please add your name to the list so that we know
21 that you're here. We'll try also to use that list to
22 inform people what the decision making in this matter is
23 going to be.

24 So with that, I guess that we're going to turn
25 some time over to the Division to start us out and give

1 us some background and history on what brings us here
2 today.

3 MR. ALDER: Okay. I'll remain seated, if that's
4 all right -- if everybody can hear me -- and just kind of
5 turn sideways just a little bit.

6 This decision was made to approve a mine permit,
7 what's called a large mine permit under the Utah mining
8 laws. And there are certain requirements established by
9 statute, and that's at 40-8-1, that's the Utah Code. And
10 that is the authority of the Division to regulate these
11 kind of mining programs. They have adopted rules. The
12 rules are under the Administrative Code in R647-4, that's
13 for larger mines.

14 And the way the permit is applied for and
15 approved is dictated by those statutes and those rules.
16 There are certain things that an applicant has to do to
17 satisfy the Division to get a permit. They include --
18 certain things have to be included in the application.
19 They include a mine plan, a reclamation plan, some
20 analysis of impacts. There has to be a surety provided.

21 But there are a lot of things that are not
22 required. Some matters are subject to the jurisdiction
23 of other agencies. The Division of Air Quality, Division
24 of Water Quality, Water Rights, they all have
25 jurisdiction over a specific aspect of state law. There

1 are federal laws that also apply to a permit.

2 Our obligation is to make sure they satisfy the
3 Division's rules and regulations as required by statute.
4 And we require that an applicant eventually satisfy all
5 state and local rules. So I think -- there are county
6 rules that may apply, to the extent that they're not
7 preempted by state or federal law.

8 That's important here, because as I've reviewed
9 the letter that was filed by Living Rivers, there are a
10 lot of important issues that are significant to the
11 public debate about energy. And obviously, this group is
12 concerned about the larger picture of energy and policy.
13 That is not the role of the Division. The role of the
14 Division is to not set policy, but to enforce the policy
15 that's been set by the legislature.

16 So with that, sort of, preview of
17 the understanding of what the Division did, I'd like to
18 turn the time over to Paul Baker to give a history of the
19 size, the scope. There's some important differences
20 between this project and other projects that have
21 received a lot of national prominence in Canada and other
22 places, and Paul will explain that. He will be able to
23 refer to the maps on the Board.

24 I would say that -- just a little more
25 background on what happened before -- there was an appeal

1 brought by Southern Utah Wilderness Alliance of this
2 decision. And it was determined that at the time that
3 the decision was made final, it's supposed to be
4 published in the county, and it was not published in
5 Grand County. So we republished in Grand County. We got
6 this application. So this is sort of a second hearing of
7 this permit, in case you were wondering why we said that,
8 why it's been heard before. That's what happened. And
9 some of the issues that have been raised are the same as
10 were raised by Southern Utah Wilderness Alliance, some of
11 them are new.

12 We hope we can provide a fair hearing. My only
13 objection to -- and I guess agreement with the
14 introductory statement by Director Baza is that, since we
15 can't address things like carbon levels or global
16 warming, we don't think a lot of time should be spent in
17 this hearing talking about that. But that's just the
18 Division's point of view.

19 I'll turn the time over to Paul Baker.

20 MR. BAKER: My name is Paul Baker. I'm
21 manager of the minerals regulatory program for the
22 Division of Oil, Gas and Mining. I'd like to introduce a
23 few people on the staff. Lynn Kunzler is a biologist;
24 Tom Munson, who is a hydrologist; and Leslie Heppler, who
25 is a geologist and the permit lead for this project.

1 And perhaps I could elaborate just a little bit
2 more about the public notice process. We originally gave
3 tentative approval for this project in May of 2009. And
4 that was published in the Salt Lake Tribune and the
5 Vernal Express. And as Steve mentioned, we did not
6 publish it in the Moab paper at that time.

7 We subsequently published it on March 25 of this
8 year in Moab Times Independent. And a couple of weeks
9 prior to that, we had notified the Grand County council
10 of this tentative decision.

11 I'd like to refer to the maps and just give a
12 brief overview of the project. The project is on the
13 Grand and Uintah County line. It straddles the line.
14 And -- okay, here's Vernal, here's I-70, and here's the
15 project, right here. There is currently a permitted
16 five-acre site. This map shows the proposed entire --
17 the total proposed operation. And this black portion,
18 right here, is the current five-acre site. And these
19 other maps show, like, some lease areas. And this shows
20 watershed boundaries and other water features.

21 The operator has proposed to begin operations in
22 this area here, the pink. And there would be a waste
23 dump here. This is called the north pit -- that's what
24 we refer to it as. This, over here, is referred to as
25 the west pit.

1 One of the issues that was raised in the
2 previous hearing was that we do not have detailed plans
3 for the west pit. And we agreed with Southern Utah
4 Wilderness Alliance, and the Sierra Club, and the
5 operator, that when the operator decides to move into the
6 west pit, that that will be a significant revision that
7 will be advertised to the public. And so we will take
8 further public comments at that time.

9 As with any mining operation, it would begin by
10 stripping topsoil from the mine areas and the operations
11 areas. Perhaps I could point out to the blue. Up here
12 is a plant site. It's basically a processing area. And
13 then this -- it's kind of an orange-ish yellow -- that's
14 a topsoil storage area. So the topsoil would be stripped
15 from all of the areas proposed to be disturbed. The
16 operator would begin by stripping the topsoil and then
17 overburden. And initially, the overburden would be
18 brought down into this area. And as the sand -- the tar
19 sand is processed, it would be stored in this area. And
20 then as the pit progresses, as there's more room, the pit
21 would be back filled, so the processed sand and
22 additional overburden and interburden would be stored
23 within the pit.

24 So there would be no discharge of runoff water
25 from the pit or from the processing area. That would all

1 be self-contained.

2 Those are really some of the basic items, I
3 guess. Upon reclamation, it would be graded to about a
4 two-and-a-half to one slope -- no steeper than two to
5 one, two-and-a-half to one -- and topsoiled and
6 revegetated. It's quite simple, but that's basically it.
7 And I guess that's all.

8 Do you have questions?

9 MR. WEISHEIT: Yeah. Hi, Paul. It's nice to
10 meet you. My name is John Weisheit. I appreciate the
11 letters that you wrote to us.

12 I have a question about the public comment for
13 the west pit. Does that happen before or after initial
14 mining operations?

15 MR. BAKER: The initial mining operations would
16 begin, theoretically, now. But as I mentioned, we don't
17 have a detailed plan for the west pit now. And so there
18 would be a further comment period before the west pit was
19 opened.

20 MR. WEISHEIT: But after initial mining begins?

21 MR. BAKER: Yes. Yes, that's right.

22 MR. WEISHEIT: Okay. Thank you.

23 MR. BAKER: Okay.

24 THE HEARING OFFICER: Mr. Alder, do you have
25 more that you want to present?

1 MR. ALDER: There will probably be a lot of
2 details that we can add in response to the comments. I
3 think we would prefer to hear the objections and comments
4 from the petitioners.

5 THE HEARING OFFICER: Okay. Now you'll notice,
6 Mr. Weisheit went ahead and asked a question. I have no
7 problem with that, as long as we can agree that that's
8 fair.

9 MR. ALDER: We're fine with that.

10 THE HEARING OFFICER: Okay. All right.

11 Well at this point, Mr. Weisheit, I'm going to
12 turn some time over to you, to kind of explain your
13 letter and concerns that you have with the Division's
14 process here.

15 MR. WEISHEIT: Thank you. And I would like to
16 make comments, but Juliana -- if it would be all right --
17 I would like for her to go first because she --

18 THE HEARING OFFICER: Certainly.

19 MR. WEISHEIT: -- I think, does a great job of
20 summarizing.

21 THE HEARING OFFICER: Okay.

22 MS. WILLIAMS: My name is Juliana Williams. And
23 I am an organizer with Peaceful Uprising, and I do work
24 with Living Rivers. I have a degree in geology, and am
25 in the process of obtaining a Master of Public Policy.

1 And I wanted to bring up the concerns that Peaceful
2 Uprising has with this proposal. They fall under two
3 primary categories.

4 The first is that we believe that this -- the
5 NOI fails to consider the full impacts of the mine. And
6 then we have some specific concerns about the impacts of
7 the operation as described in the NOI.

8 First I'd like -- sorry about that. Would you
9 folks like me to stand up?

10 So the first thing that, you know, we want to
11 make clear is that everyone knows that the PR Springs
12 Mine would be the first commercial tar sands mine in the
13 United States. And as such, this country and the state
14 of Utah has very little experience regulating this
15 industry. And so we want to make sure that the
16 regulations and the process for dealing with this mine
17 are as deliberate and careful as possible.

18 So first and foremost, we believe that the
19 environmental assessment of the NOI is inadequate in
20 scope. While Earth Energy Resources -- and I will also
21 use the abbreviation, EER -- is planning to extract the
22 crude bitumen from the tar sands mine, that is not the
23 extent of the impact. The impact also goes to the
24 refineries that the bitumen is sent to, which will
25 introduce toxic contaminants, like lead and nickel,

1 arsenic, mercury, benzene, and cyanide. And also,
2 according to environmental -- the environmental integrity
3 project, refining tar sands crude results in higher
4 emissions of sulfur dioxide, hydrogen sulfide, sulfuric
5 acid mist, and nitrogen oxides, more than refining
6 conventional oil. And we felt that this is a very
7 important part in looking at the total impact of the
8 mine, because if the tar sands crude is refined in Utah,
9 that will have an affect on the people near the
10 refineries.

11 And in 2009, there were four refineries in Utah
12 that imported tar sands crude oil from Canada and
13 processed it. Those were Chevron in Salt Lake City,
14 Tesoro West Coast in Salt Lake City, Holly Refining and
15 Marketing in Woods Cross, and Silver Eagle Refining in
16 Woods Cross. And refining tar sands oil requires
17 specific adjustment to operations so that they can
18 accommodate the additional impurities in the oil compared
19 to conventional oil. And together, these refineries
20 imported approximately 5.2 million barrels of tar sands
21 crude. Under full production of 2000 barrels a day, 350
22 days a year, the PR Springs mine would increase the
23 amount of tar sands crude refined in Utah by 13 percent.
24 And we feel that that is a significant increase in the
25 risk to the people and the health of Utah, that should be

1 considered as part of this mine application.

2 So as a result of that, therefore, we ask that
3 the Division of Oil, Gas and Mining require disclosure of
4 where the tar sands crude would be refined -- if that
5 information is known -- or ask that it is disclosed as
6 soon as it's known, so that the public has an opportunity
7 to weigh in on the health issue. And the reason we ask
8 that is because this is such a new industry to the area
9 that we do not have experience in regulating.

10 Another impact that we feel is not addressed in
11 the NOI is the impacts that the tar sands mine would have
12 on the road capacity in the two counties. Most of the
13 roads leading up to the mine are dirt and gravel roads,
14 many of which are, frankly, impassable in the wintertime
15 or after heavy rains. And assuming that Earth Energy
16 Resources will transport the crude oil from the mine in
17 standard tank trucks, this would require approximately 19
18 vehicle trips going to and from the mine each day, in
19 addition to the vehicles used by employees. And we feel
20 that this would introduce quite a bit of strain on the
21 road capacity out in these counties. And we would like
22 to know, you know, whether or not the tax payers of those
23 counties will be the ones paying for the maintenance of
24 the roads, which otherwise, you know, without the mine
25 would see much lower traffic.

1 And in addition to the usage of the roads, that
2 means that there will be a significant increase in the
3 amount of dust produced by all that traffic. And while
4 the NOI touches on dust suppression at the actual mine
5 site, the dust created by traffic to and from the site,
6 there's no plan to deal with it, no plan to spray water
7 or upgrade the roads. And that is just as significant as
8 the mine -- or as the dust produced by mining operations.

9 So as a result, we're asking that Earth Energy
10 Resources consult with both Grand and Uintah counties
11 about strategies to minimize the dust along the primary
12 access roads and help develop strategies for how to keep
13 those roads in proper shape without unduly burdening the
14 taxpayers of those counties.

15 I want to transition from the scope of the NOI
16 now, to the actual impacts that we take objection to.

17 The first refers to the overburden and
18 interburden storage areas which, as Paul mentioned, are
19 those brown sections towards the southern end of the
20 mining site. According to the NOI, 7.9 million cubic
21 yards of material will be removed from the mine in total,
22 and 4.8 million cubic yards of processed sand,
23 interburden, and overburden will be returned. That means
24 that the remainder of the material, 4.9 million cubic
25 yards, will be deposited in these areas, right here.

1 Our concerns about this rely on the impact that
2 those, essentially, valley fills will have on the head
3 waters of Willow Creek and the long-term monitoring and
4 maintenance.

5 Under Section 404 of the Clean Water Act, any
6 discharge of dredged fill -- dredge or fill materials
7 into waters of the United States is forbidden unless
8 specifically authorized by a permit issued by the Army
9 Corps of Engineers. That's a federal permit that
10 supersedes state regulations.

11 Now, these valley fills will basically be placed
12 into canyons that are the head waters of Willow Creek,
13 which flows into the Green River and then the Colorado
14 River. By very significantly disturbing those canyons,
15 it will have an impact on the headwaters of the water
16 flow. So we ask that Earth Energy Resources clarify
17 whether or not a dredge and fill permit is required, and
18 if not, what they will be doing to ensure that those
19 valley fills do not affect the water quality of Willow
20 Creek.

21 And that goes into the long-term maintenance
22 question where, essentially, these -- in the NOI it says
23 that these will be stored permanently. But there is not
24 a plan to monitor surface water pollution, suppress dust
25 on those specific areas. And so we are concerned that if

1 those are lacked as permanent structures, that they could
2 have a significant impact on the water quality of the
3 area.

4 And then the last issue that I would like to
5 touch on is the question of water collection and quality.
6 According to the application, precipitation that
7 accumulates in the bottom of the mine in collection sumps
8 will be, "Removed from the pit along with the solid
9 materials and processed along with the bitumen-bearing
10 sands. As needed, it will also be pumped from the mine
11 and used for dust suppression on mine and plant roads."

12 This is water that will be at the bottom of the
13 mine and exposed to the tar -- the raw ore of the tar
14 sands. We are concerned about the potential for surface
15 water contamination; and that if this water is used to
16 suppress dust without first testing and treatment, we're
17 concerned that it would present a risk to surface water
18 contamination.

19 I would like to say that we have significant
20 concerns about the company's track record in this area.
21 The pilot mine that was dug -- this black area right
22 here, the initial mine -- from what we can tell it has
23 been left unlined, unmonitored, and untreated, and
24 available for wildlife and livestock to consume.
25 Pictures from SUWA and from Living Rivers, from both this

1 summer and last summer, indicated that there were several
2 feet of water in the pit. And we're concerned that
3 hydrocarbons, heavy metals, and volatile organic
4 compounds might have leached into the water in the bottom
5 of that pit.

6 I have serious doubts that if this is the level
7 of care that the company shows for our water and land and
8 wildlife, how can we expect them to meet their claim of
9 zero discharge and no impacts to surface water? It
10 appears that there already is an impact there, because
11 they have been left unmonitored.

12 And I just want to mention that correspondence
13 from Paul Baker states that, "The operator would be
14 potentially subject to enforcement action if a discharge
15 occurred." That was in his response letter to our
16 petition letter.

17 And one of the things that we would like to know
18 is: What types of enforcement action would be taken?
19 What level of discharge would require enforcement action?
20 And whether enforcement action will be investigated with
21 regards to the water collected at the pilot mine.

22 And then the final comment that I would like to
23 make is that, we would just like clarity on the process
24 for public involvement and edification for all amendments
25 to the NOI. What types of changes would require public

1 comment and what types of changes would not? That's a
2 question for the Division, that we'd like to have clarity
3 on.

4 So to wrap up, you know, beyond the
5 contributions that this project and the product of tar
6 sands would have towards climate change, which we've
7 heard is not really the purview of the Division, Peaceful
8 Uprising and Living Rivers object to the approval of the
9 PR Springs Mine, due to failure of the NOI to address the
10 full water, air, and health impacts of the tar sands
11 introduced to the region; the inadequate plan to address
12 the need for road maintenance and dust suppression; the
13 lack of clarity regarding the need for a dredge and fill
14 permit under the Clean Water Act; and failure of Earth
15 Energy Resources to appropriately protect the mine site
16 from water contamination at its initial mining pit.

17 And further concerns about water and air quality
18 and wildlife impacts will be addressed by John Weisheit.

19 MR. WEISHEIT: I would like Ashley Anderson to
20 precede me, because what he has to say isn't really
21 lengthy.

22 MR. ANDERSON: Okay. I'll stand up.

23 Hi. My name is Ashley Anderson, and I'm with
24 Peaceful Uprising, been working with Living Rivers, also.
25 I'm going to read a statement by a person named Logan

1 Hansen. He's a resident of Grand County. He couldn't
2 make it up here today because of car troubles. So he
3 prepared a statement and I'm going to read it for him.
4 I'll follow up with a few thoughts of my own, but make it
5 nice and short. He's a geochemist. So everything after
6 this point will be Logan Hansen.

7 "As a citizen of the United States, resident of
8 Grand County, and as a geochemist specializing in the
9 affects of polluting natural systems, I am adamantly
10 opposed to the county and country moving forward with any
11 tar sands operations, and especially so for operations in
12 Grand County. We in Grand County are blessed with great
13 natural beauty, wide open spaces, and clean air and
14 water. We'd like to keep it that way.

15 "The proposed operations in Grand and Uintah
16 counties will destroy natural habitats, pollute water,
17 change the physical landscape of the region, and leave a
18 chemical legacy likely to persist for generations. They
19 will produce few, if any, local jobs. And the profits
20 and extracted energy will not directly benefit the
21 counties. I am disappointed that the State of Utah and
22 the involved counties appear willing to sacrifice a
23 pristine tract of natural land for a bit of tax revenue.
24 The county should, instead, focus on stimulating the
25 local economies and producing local jobs that do not

1 involve destroying one of our greatest gifts.

2 "Earth Energy Resources is planning to use a
3 suite of chemicals that should give Grand and Uintah
4 counties pause for analysis. D-limonene, one of the
5 components of EER solvents, has not been evaluated for
6 genotoxicity, carcinogenicity, potential for endocrine
7 disruption, or reproductive and developmental toxicity by
8 any major health organization, including the US
9 Environmental Protection Agency, World Health
10 Organization, or National Toxicology program.

11 "Another component, alkylbenzene sulfonate, has
12 been proven toxic to aquatic fauna at the parts per
13 million level. This is equal to 1/10 of a percent, or
14 roughly equal to four drops of a pollutant in a 55-gallon
15 drum of water. This level of pollution is nearly
16 impossible to avoid during tar sands extraction and
17 processing, as the Canadian province Alberta is
18 discovering. The recent reporting of mutated fish" -- a
19 web link follows that -- "in Athabasca Lake downstream
20 from Alberta's tar sands operations and no other industry
21 raises more questions.

22 "There's no man-made technology that can
23 guarantee zero leakage of contamination into our natural
24 waters. Survival in the high desert depends absolutely
25 on our natural waters. Once our waterways are polluted,

1 it is extremely difficult, at best, to remediate them.
2 Any potential benefits to the proposed tar sands
3 operations are vastly outweighed by the risks." That's
4 the end of Logan Hansen's statement.

5 On a personal level, I went to high school in
6 Grand County. I have family that lives there. I have
7 lived there many times. And I've also lived in Salt
8 Lake. I have to say the idea that this horrifying
9 operation of tar sands extraction coming to my state
10 upsets me and upsets a whole lot of people that are near
11 and dear to me. And it doesn't leave a very intelligent
12 legacy for our state or our country for a direction to go
13 in. These are limited resources that have a huge
14 environmental impact. And we'd be wise to take another
15 look at this permit. And I'm also disappointed in the
16 amount of time that Grand County was given to weigh in on
17 this. I know that it's a difficult job to keep track of
18 all this stuff for the DOGM. I appreciate their hard
19 work in doing this, to balance the public interests
20 against the legal precedents, and everything like that.
21 Sounds like a very complicated job that I wouldn't want
22 to do or probably wouldn't be capable of doing.

23 But I think that it's time to step back, stop,
24 and take another look at this permit. It would be the
25 smart thing to do. Thanks.

1 THE HEARING OFFICER: Mr. Anderson, is there a
2 possibility that we could get a copy of Mr. Hansen's
3 statement?

4 MS. WILLIAMS: Actually, we'll provide you with
5 a copy of all of our statements.

6 THE HEARING OFFICER: Okay. Great.

7 MR. WEISHEIT: Hi. My name is John Weisheit.
8 I'm 56 years old. And I'm doing this so you can get to
9 know me a little better.

10 I have recreated on the Colorado River my entire
11 life since infancy, and its tributaries. I have also
12 worked as a professional river guide on the Colorado
13 River and all its tributaries for over 30 years. I have
14 thousands of river trips.

15 My first trip through the Uinta Basin of the
16 Tavaputs Plateau, where this facility is going to be
17 existing, was in 1980. And my last trip was just a week
18 ago with Ms. Simon over here. We had a great time.

19 And I'm also an author. I have worked with Jane
20 Belnap and Robert Webb of the United States Geological
21 Survey. We wrote a book together about the human and
22 environmental history of the rivers in Canyonlands
23 National Park, and the changes that have occurred in the
24 last 125 years. This book was published by the
25 University of Utah.

1 In the year 2000, I became a river activist, and
2 we formed a nonprofit organization called Living Rivers.
3 We were first a project of the Center for Biological
4 Diversity. I'd like to point out that in our letter to
5 UDOGM, the Center for Biological Diversity also signed on
6 to this letter, as did red Rock Forests. Unfortunately,
7 they were not able to be here today.

8 When we got our 501(c)(3) status, that happened
9 in 1902, we now sponsored four projects in Utah that
10 includes Colorado River Keeper, which is an affiliate of
11 the Waterkeeper Alliance, which has it's headquarters on
12 the Hudson River in New York. It's an international
13 organization. There's over 150 Waterkeepers in the;
14 world. And we also -- our other projects include the
15 Canyonlands Watershed Council, Uranium Watch, and River
16 Runners for Wilderness.

17 I would like to start out by asking a simple
18 request of the Division, and that is, is that the
19 administrative record allowed to be open. And I would
20 like it to be opened until 45 days, 60, 90 days,
21 whichever is appropriate, after Grand County issues its
22 land use permit to EER.

23 Do you think that could be accommodated?

24 THE HEARING OFFICER: Tell me more about the
25 land use plan.

1 MR. WEISHEIT: The conditional land use permit.
2 Thank you.

3 So the reason why is because we find this to be
4 a very complicated initiative. We're currently filing
5 FOIAs with the EPA. We haven't received these things
6 yet. We want to serve the public in its interest to
7 provide as much educational material about this. We need
8 time to get these documents and to disseminate them to
9 the public and to UDOGM. And we would like,
10 consequently, the administrative record to remain open so
11 that we can supply this information to the benefit of all
12 of us.

13 Do you think that might be possible?

14 THE HEARING OFFICER: I guess my question is:
15 Where is that process that Grand County is going through,
16 and how long will that take?

17 MR. WEISHEIT: Juliana said she would love to
18 answer that question.

19 MS. WILLIAMS: This is Juliana Williams with
20 Peaceful Uprising. I spoke with the Grand County
21 Planning Commission just last week, and they said that
22 while they'd had an initial pre-application meeting set
23 up with Earth Energy Resources, they had not yet received
24 an application for the conditional use permit. So that
25 permit, in my understanding, is required before any

1 mining operations can commence.

2 THE HEARING OFFICER: We may need some more
3 information on that.

4 MR. WEISHEIT: Okay. We would love to hear it
5 when you come to that decision.

6 Essentially, I would like to say that I believe
7 this project is a project of diminishing returns, and I
8 don't believe it has any real value or contribution to
9 society. I see no merit in the operation, whatsoever.
10 And I hope that the investors -- whether they be here or
11 they read this in the press, or whatever -- would please
12 consider an alternative renewable investment for our
13 energy needs in the future.

14 I did some simple math. It's something like 19
15 to 20 million barrels of oil is how much this country
16 uses in one day. And this seven-year operation will
17 provide enough energy for four hours. And I just don't
18 see how four hours of fuel for the nation is worth
19 destroying this landscape that Ashley described very
20 well.

21 It's fine for what it is. Its best value is to
22 leave it alone as a watershed, because the Colorado River
23 is a sole source river. It is the only river the seven
24 Basin states have. And it's the only river that the
25 tribes have within the Basin, as well as Mexico. I

1 really don't think it is worth turning this into a
2 national sacrifice zone -- the loss of our watershed.

3 Now, I do have a few questions, and I would like
4 to go over them a little bit. I was hoping -- I read the
5 NOI, the Notice of Intent, for this large operation. And
6 I have a lot of questions that I would like answered
7 either today, or by EER in a phone conversation or
8 letters, or by the Division. I don't know, but -- and
9 one of them is, is I want to talk about mass wasting of
10 the Tavaputs Plateau. Because, according to the United
11 States Geological Survey, debris flows or mass wasting is
12 more significant in the Tavaputs Plateau than any other
13 place on the Colorado Plateau -- that includes the Grand
14 Canyon and Cataract Canyon.

15 The trips that I have done show massive amounts
16 of debris flowing through side canyons to the Green
17 River. And the reason why is because there's a high clay
18 content. And I am concerned that between the overburden,
19 the interburden, the amount of clay mixing in with sand,
20 I really see the potential during a heavy cloud burst
21 that this stuff would become super saturated and would
22 fail and fall into the drainages of Willow Creek. I'm
23 not convinced that EER can contain this huge amount of
24 debris mixed with clay. I think it will eventually end
25 up in Willow Creek, and possibly even the Green River.

1 So I would like more information on that.

2 I'm also concerned about this water well. They
3 say that the water is 360-acre feet annually, and that
4 they need this water for seven years. It's my
5 understanding this is a confined aquifer. In other
6 words, it's perched in the rock itself; it's not actually
7 flowing to the Green River. I want to know if that is,
8 indeed, true.

9 And I want to know how much water is there. Do
10 you really have enough water to do dust suppression,
11 which I think is absolutely essential, which I'll explain
12 later as it relates to the snow packs of the Rocky
13 Mountains. I think this is a small, confined aquifer
14 that really can't last seven years. I think you'll
15 deplete it. And I would like to know if that's a
16 legitimate concern.

17 I also think that there's -- I'm also concerned
18 about water consumption. The NOI says that they need 1.2
19 to 2.0 barrels of water for every barrel of oil. But
20 that -- does that include the water for dust suppression?
21 Does that include the water for the citrus-based solvent?
22 It takes an agricultural community to use water to make
23 the citrus to make the solvent. That water use has to be
24 considered into this. In other words, I want to know
25 what the overall water consumption of this is. And the

1 reason why is because this is an arid landscape. And the
2 problem with having oil development in the Colorado
3 Plateau has always been about accessing water, especially
4 now because we're running out of water.

5 So I'm afraid that some of this water usage
6 might affect other communities, such as Salt Lake City,
7 which do not have an older water right. This is a 1956,
8 1958 water right, which is older than the Central Utah
9 project. So they would actually have water preferences
10 to Salt Lake City in a time of shortage. And I think
11 that the people of Salt Lake need to know that.

12 I'm also concerned about the Mexican spotted
13 owl, because there's new information that has come out
14 from the Ninth District on the appellate court, which has
15 ruled that habitat for the Mexican spotted owl should
16 include, not just nesting habitat, but foraging habitat.
17 In other words, if a Mexican spotted owl comes through
18 this area and he takes a vole or a mouse, that is
19 considered critical habitat. So I think that that
20 changes some of the statements that have been written in
21 the NOI. So I would like some clarification on this new
22 ruling by the Ninth Circuit.

23 I'm concerned about light pollution, too,
24 because this is a facility that's going to be working 24
25 hours a day. When I visited the PR site a month ago, I

1 could see Dinosaur National Monument from PR Springs.
2 And so I'm concerned that this -- when I'm, or other
3 visitors -- and I've been to the Dinosaur National
4 Monument many, many times -- and if I look out and I see
5 this light pollution out there from their facility, I
6 think that that would be upsetting to some of the people
7 at Harper's Ferry -- at Harper's Viewpoint, for example.
8 So I would like to know more about that.

9 But my biggest reason why this shouldn't happen
10 is because I go to meetings all the time with the seven
11 Basin states, which include Utah, and they always talk
12 about how there's cooperation between Utah and the other
13 states and Mexico -- the users of the Colorado River.
14 And right now the Bureau of Reclamation and the seven
15 states are engaged in a \$2 million study to determine the
16 future allocations and needs of the Colorado River in the
17 future. They're looking at the tree ring record.
18 They're looking at global circulation models to determine
19 what kinds of impact climate changes are going to have on
20 our water supply.

21 So Utah is, by enjoining in this -- which they
22 are with the Bureau of Reclamation and the Department of
23 Interior -- they are already engaged in climate change
24 action and the issues right now, because they are part of
25 this study. So I beg to differ. Climate change is a

1 part of this, according to Utah, because they have
2 already invested money in this research, as being done by
3 the Bureau of Reclamation, to determine the impacts of
4 climate change on the future. And the reason why is
5 because they think that in 40 years the Colorado River
6 Basin will be depleted of 3 million acre feet. And if
7 there is a depletion of 3 million acre feet, which is
8 what Arizona uses in one year, then there's going to be
9 some serious problems.

10 And so I think what I'm trying to say is, this
11 kind of activity is inappropriate because it produces
12 carbon dioxide beyond normal, as Juliana mentioned three
13 times; it creates dust; the dust gets on the Colorado
14 Plateau and the Rocky Mountain snow pack. It creates
15 early evaporation, early snow melt, and sublimation in
16 the atmosphere. And these kinds of projects is what are
17 taking our water away. And this water is more important
18 than four hours of oil supply for the United States.

19 So I do think that they need to at least -- it
20 would be nice if the Division would take this to the
21 other six states, to the tribes, and to Mexico, and let
22 them assess this to see if this is the kind of activity
23 that they want happening on their watershed. Because
24 we're talking about a serious loss of water, otherwise.
25 And I think it's fair that these other people know.

1 I think it's also important that the Division go
2 to Congressman Raul Grijalva in Tucson. And the reason
3 why I say this is because he's currently introduced a
4 bill to protect the water quality and quantity of the
5 Colorado River below the Grand Canyon dam. So while he's
6 trying to fix and improve the quality of the Colorado
7 River in the lower Basin, up here in the upper Basin,
8 we're doing things to destroy the watershed.

9 So there is a contradiction of things going on
10 here between the Basins. There is no cooperation. And
11 that's exactly against the mandate of the reclamation and
12 the other six parties of the Colorado River compact.

13 So I think what I'm asking is that UDOGM please
14 expand this to just outside of Grand and Uintah counties
15 and involve the other people. And the reason why I say
16 that is, Grand County has already done this once. We
17 went to the Metropolitan Water District of Southern
18 California, and we said, "We've got this huge Atlas
19 tailings uranium pile right next to the river. And if
20 the river floods and takes this downstream, it will
21 irradiate your water forever." And it got the interest
22 of the Metropolitan Water District, and they helped Grand
23 County get that Atlas tailings pile off the Colorado
24 River and into a safe place approved by the EPA.

25 I think you will find that if you broaden the

1 scope and the interest of this project to the other
2 people, you will find that there is not a lot of support
3 for this kind of activity on the Colorado Plateau.

4 I think that's all I have to say at this point
5 in time.

6 Are there any questions?

7 MR. PICARDI: I have two questions. My name is
8 Mike Picardi. I'm a concerned citizen. And they both
9 require very short answers.

10 Has the permit already been granted for this
11 mine, yes or no?

12 MR. ALDER: No. The permit has been -- the
13 decision has been approved. The permit has not been
14 granted. And in addition to the conditions of obtaining
15 other agencies' approval, which could happen after the
16 permit's been issued, the permit will not be issued until
17 a surety has been posted. I can't remember the amount of
18 the surety.

19 MR. PICARDI: And the second thing, what does
20 Utah get back from the mine? What percentage of the
21 money comes back to Utah?

22 MR. ALDER: The land is owned by the School
23 Institutional Trust Lands Administration, at least
24 partially. And so there's a royalty in the lease
25 payment, that they would be better able to address. I

1 don't know.

2 MR. ANDREWS: My name is John Andrews. I'm
3 legal counsel for the School and Institutional Trust
4 Lands Administration.

5 In answer to the question, the amount that would
6 come back would be a royalty that would go to the
7 permanent state school fund. And I believe it's actually
8 a sliding scale royalty somewhere between 5 and 12-1/2
9 percent, is my recollection. 6-1/2 at this point.

10 MEMBER OF THE AUDIENCE: Of what? The profit
11 they make?

12 MR. ANDREWS: Of the net revenue. It's not a
13 profit. It's based on essentially a modified gross. And
14 the other issue would be property tax revenue, income
15 tax.

16 MR. WALLWORK: Kelsey Wallwork, Mr. Chairman.

17 THE HEARING OFFICER: I'm sorry, I didn't quite
18 hear the name.

19 MR. WALLWORK: My name is Kelsey Wallwork. I
20 watched the video of the Canadian tar sands. I think
21 they said it's probably -- the land is irreparable after
22 tar sands mining. And if that's true, are they -- well,
23 sorry. Just a second.

24 Are they willing to do this for profit, to the
25 land if its irreparable? Is that -- I don't know if I'm

1 putting it right.

2 THE HEARING OFFICER: And I guess I'm not quite
3 sure what your question is.

4 MR. WALLWORK: Okay. If they are allowed to do
5 tar sands mining, would it be irreparable after they're
6 done?

7 THE HEARING OFFICER: I think either the
8 Division or the applicant can address it. But the whole
9 concept of the Utah Mine Land Reclamation Act is that we
10 would restore the land once mining is completed.

11 MR. WEISHEIT: Thank you. Because you made me
12 think of something I forgot to say. Just one more time.

13 The other thing is Jane Belnap, who is a soil
14 scientist who lives in Utah -- she's a close friend of
15 mine -- she has written several papers that say once
16 topsoil is removed on the Colorado Plateau, it very
17 rarely -- what usually happens soils is it blows away or
18 it gets washed down into the reservoir systems of the
19 Colorado River. So the topsoil replacement -- storage,
20 replacement, and reseeding, what I think you are really
21 creating is a huge dust problem for our snowpack
22 reservoirs in the Rocky Mountains and the sediment load
23 in the reservoirs, especially in Lake Powell. I really
24 don't think you are going to be able to contain that. I
25 think it's going to just turn into a weed infested mess.

1 That's my personal opinion.

2 I would like the Board to discuss this in more
3 detail with Jane Belnap, who is a USGS scientist. I
4 think she could be a valuable asset to making a
5 determination on the environmental impacts on this
6 particular facility.

7 THE HEARING OFFICER: If you could hold on with
8 questions, I will open it up at the end of this for those
9 types of things. But I'd like to go ahead and hear from
10 the applicant at this point. They are the ones who are
11 asking permission to do this, so I think it's important
12 to hear from them and their statements.

13 MR. DAVIS: Thank you, Mr. Baza. My name is
14 John Davis. As I mentioned earlier, I'm counsel for
15 Earth Energy Resources. Initially, let me state that my
16 understanding of the rules is that the only folks that
17 are entitled to be heard -- even in an informal
18 conference -- are those that have specifically protested,
19 and that would be the petitioners. Let me also say,
20 however, that we have no objection to questions or
21 comments from the audience, so long as we keep those
22 within the confines and the framework of this process.

23 And I think we've got a problem with this
24 process. And that is, initially, that there are many
25 issues that have been raised that are not within either

1 the expertise, the authority, or the jurisdiction of the
2 Division of Oil, Gas and Mining. And those relate to the
3 climate change concepts, the discussion of water rights
4 and water quality issues, which are within other federal
5 and state agencies and jurisdictions. And I think we
6 need to attempt to confine ourselves to discussion: One,
7 of the issues which DOGM can consider, and those issues
8 that DOGM has jurisdiction over.

9 Turning specifically to those issues, then.
10 First, I'd like to correct a statement that -- I believe
11 it was Ms. Williams made -- that this is not the first
12 commercial tar sands facility in the United States. As
13 many in the Division and within the industry are aware,
14 the Asphalt Ridge tar sands project has operated off and
15 on for over 25 years just outside of Vernal, Utah. And
16 I'm aware there's also a number of small project -- pilot
17 projects in other states. So that correction should be
18 noted for the record, as well.

19 Second, the comparison of this project to the
20 Athabaskan tar sands is totally out of place. That is a
21 hot water based process. It's an open process that
22 creates large tailings ponds and large impoundments, and
23 also a lot of residual issues. It uses a lot more water
24 than this process will use -- probably three times as
25 much. But other people can probably address that better

1 than I. And finally, it uses a lot more energy than this
2 process will use, and creates more CO2 emissions.

3 Turning specifically to what EER has done, EER
4 has fully complied with both the mine land reclamation
5 requirements in the Utah code and the DOGM regulations
6 under R647-4-101, et cetera.

7 The approval of the NOI awaits final approval of
8 our reclamation surety, which has not been posted yet,
9 but will be, I believe, a \$1.7 million bond. Is that
10 correct?

11 MR. CUTHBERT: That's correct.

12 MR. DAVIS: And also, we have an obligation to
13 obtain other permits from other governmental entities.
14 This has been a three-year permitting process to date --
15 well, three-year permitting process from the beginning to
16 the date that EER received its letter from DOGM with its
17 approval, subject to the reclamation bond in September
18 2009.

19 As Steve Alder mentioned, you know, other
20 agencies are involved in this. We have -- the EPA has
21 primacy in the air program in Utah on Indian -- in Indian
22 country. These lands, although they are not owned by the
23 Indians, are within the jurisdictional confines of the
24 Uncompahgre reservation. So the EPA is responsible for
25 the issuance of air permits.

1 And in March of 2010, the decision was made by
2 EPA -- and that letter is in the record -- that EER had
3 complied with the air permitting requirements and was not
4 required to obtain what's known as a NSPS air permit for
5 a refinery, and that it is not going to be a major source
6 for any, what are known as, criteria pollutants.

7 It has also obtained its water permits from the
8 Utah Division of Water Quality for both groundwater and
9 surface water. The Division has specifically made a
10 finding that it will not impact groundwater resources
11 from a pollution standpoint. Certainly, if water is
12 drawn from an aquifer, there are going to be diminution
13 of aquifers, unless there's sufficient recharge. But
14 from a water quality standpoint, we have our permit for
15 groundwater discharge.

16 Second, it will not impact surface waters. And
17 that decision has been also made by the Division of Water
18 Quality that no additional permit is required. We have
19 supplied to DOGM, and voluntarily did so because it
20 wasn't required by state law, a Storm Water Pollution
21 Prevention Plan called a SWPPP. And that is in place,
22 along with other litigation and protective measures
23 designed by EER and their environmental consultants, and
24 approved in the NOI. We're obligated to report and to
25 correct any deficiencies in those permits.

1 Second (sic), we have a Spill Prevention Control
2 and Countermeasures plan, which is known as an SPCC plan,
3 that is designed to control spills of any chemicals used
4 on the property, and then double containment of any tanks
5 or any other structures on the facility. And those are
6 in place and will follow -- they follow the requirements
7 of the applicable state regulations.

8 So contrary to the petitioner's allegations,
9 then, the operations will not, in their current form and
10 as permitted and as implemented, pollute either the
11 groundwater or the surface waters of the Green River
12 system. Nor will it adversely impact air quality beyond
13 that allowed under applicable law.

14 The chemical wash that the EER is going to use
15 is an orange terpene, which is a biodegradable, organic,
16 and citrus-based reagent that will be utilized, and then
17 reused in the process with very little loss, other than
18 residual loss in the wet sands that are the tailing
19 result from the process.

20 It's correct that Willow Creek is currently
21 identified as an impaired stream for total dissolved
22 solids. However, any runoff that were to escape from the
23 site would flow into Main Canyon, which is a tributary
24 stream. But this site is 25 miles above the confluence
25 between Main Canyon and Willow Creek. So it's extremely

1 unlikely that even in a major flood event that any water
2 that did manage to escape from this site, if that were to
3 happen, would ever reach Willow Creek, let alone the
4 Green River.

5 As the NOI demonstrates, all runoff is designed
6 to be contained. And further, no high TDS runoff will
7 leave the site and/or the control systems.

8 As to water rights, those will be addressed by
9 the state engineer's office. And there is a process for
10 that, and a process for protests, if you have standing,
11 if you are another water user that has a concern. So we
12 don't believe this is the appropriate forum to either
13 discuss or debate water rights or the use of water at the
14 site.

15 And at this point, I'd like to, then, turn it
16 over to Mr. Barclay Cuthbert, who is the vice president
17 of operations, for further comments.

18 MR. CUTHBERT: Thank you, John. Barclay
19 Cuthbert of Earth Energy Resources. As John mentioned,
20 we've worked in close consultation with DOGM since
21 September of 2006 in the development of our NOI. And
22 certainly they have been very vigilant to make sure that
23 we have met the requirements of the large mine permit
24 regulations, and we've worked to do so.

25 MEMBER OF THE AUDIENCE: Could we ask you to

1 stand?

2 MR. CUTHBERT: So my name is Barclay Cuthbert.
3 I'm the vice president of operations for Earth Energy
4 Resources.

5 Just to follow on from John's comments, I'd like
6 to say that we have been working closely with the
7 Division of Oil, Gas and Mining since September of 2006,
8 to develop our Notice of Intent, to make sure that we are
9 meeting the regulations that encompass that.

10 As has been mentioned previously here, there's a
11 number of other permits that are required in order for us
12 to begin our operations. And it is our obligation to
13 make sure that those permits are in place before we
14 commence. And that, you know, obviously includes the
15 surety bond. But it's dealing with organizations like
16 the Division of Water Quality, Wildlife Resources, the
17 counties where operations are in place, EPA, and several
18 others.

19 We are anxious to get this project underway. We
20 feel that it will be a good project for Utah, and
21 certainly not diminishing returns. It will provide
22 energy that is going to be used within the state. It
23 will provide jobs to the people of eastern Utah. It will
24 provide benefits to SITLA and other agencies. And we
25 think that it can be a model for future unconventional

1 energy development.

2 The process we've developed is a low water, low
3 energy process. As John Davis mentioned, we're not going
4 to have tailings ponds. That would minimize our
5 footprint. We'll be able to reclaim as we go and
6 minimize our footprint. So again, you're not going to
7 see anything on the scale there.

8 The size of the resource in Utah does not enable
9 anything that you would see -- like what you would see in
10 Athabasca. And the nature of the resource here is also
11 different. It necessitates a different process to
12 extract that bitumen from the oil sands. And that's the
13 process that we've developed and have been working to
14 commercialize.

15 There's been a number of comments today about --
16 I guess, including a global assessment of the emissions
17 from our project. And I would comment that each step in
18 this process is already under its own set of regulations.
19 If you look at a refinery, it has to operate within its
20 permit and ensure that its emissions are not exceeding
21 what is allowed. And that, you know, to try to tie a
22 refinery operation with our operations is really not
23 applicable. You would not do the same thing to any other
24 oil well or gas well in the country. And I certainly
25 don't think it's applicable here.

1 The orange material that we use, it is a
2 byproduct from citrus manufacturing, so it's not like a
3 bio -- or ethanol for gasoline replacement. You do not
4 grow oranges specifically for this. It's a byproduct
5 that comes out of the existing industry. So there are no
6 additional growth requirements to produce this chemical.
7 It is something that is there already.

8 As far as the test pit that we dug in 2005, as
9 mentioned there is water that is collected in there. And
10 what has happened is that we dug into the top layer of
11 the oil sands. And when that project finished, what you
12 can see is that oil sand naturally contains any water
13 that falls incident on that pit. So what you'll see is,
14 the water level will rise to the level of the oil sand.
15 And then the porosity in the rock material above that
16 allows discharge. So there's no containment issue that
17 hasn't been there originally.

18 And the other thing that I will add is, in this
19 area, this area is a high plateau and it's incised by
20 canyons. And if you want, you can walk around the
21 deposit. And we've done so, to ascertain the aerial
22 extent of it. So the exposure of that oil sand during
23 the test operations really doesn't do anything different
24 to what was there already. So our decision to leave that
25 pit open -- as you can see that's right in the middle of

1 where we plan our larger mining operations. And since we
2 are planning further operations there, we did not reclaim
3 any of that area. That does not, I guess, suggest that
4 that's what's going to occur when we get into our large
5 mining operations. We've got our reclamation plan within
6 the NOI that's been thoroughly reviewed with the Division
7 of Oil, Gas and Mining, and we intend to comply with it.

8 There's examples in the State of mines that
9 occur at elevations very similar to ours. And I think
10 that people driving by them would not know that that is
11 reclaimed mine area. We are very confident that we can
12 do the same in the PR Spring project. That's all for
13 now. Questions?

14 THE HEARING OFFICER: Okay. Let's hold on for
15 questions for just a minute. Give me a minute for an
16 aside here.

17 (A discussion was held between the Hearing Officer and
18 the reporter off the record.)

19 MR. DAVIS: Mr. Baza, I think before we conclude
20 our initial statement -- I don't know if you want to take
21 a break. That might be appropriate. But I would like
22 Karla to respond and also give a brief technical summary
23 of the control structures that they will have in place --
24 that EER will have in place in this process.

25 THE HEARING OFFICER: Yes, that's fine. I'm

1 sorry. I didn't realize you weren't quite finished yet.
2 So please go ahead and proceed.

3 MR. DAVIS: Karla, I don't know if you'd be more
4 comfortable sitting, or if you'd like to stand up and
5 maybe use the maps and...

6 MS. KNOOP: Either way is fine with me.
7 Probably just so people can hear, I should probably
8 stand.

9 MR. DAVIS: All right.

10 MS. KNOOP: My name is Karla Knoop. I'm a
11 hydrologist with JBR Environmental Consultants. We are
12 the group that assisted Earth Energy in putting together
13 the information that was packaged as the Notice of Intent
14 that went to the Agency to review. I certainly didn't
15 prepare the entire NOI, but I am familiar with it. And I
16 did prepare certain portions that had to do with the
17 water issues in particular. And that's what I'll focus
18 on here, since some of the comments and questions have
19 related to water. I'll try to speak up as much as
20 possible, I guess.

21 To start out with, there are several different
22 layers of investigation that we did in working on this
23 project as it relates to water, that served to, I guess,
24 ascertain whether we predict environmental impacts as a
25 result of water. The first thing that I would note would

1 be the site conditions themselves -- the environmental
2 conditions where the property is located, and also what
3 Earth Energy has proposed to do. We may note that the
4 watersheds that are affected by these areas are ephemeral
5 washes. They are very small. They are headwaters to
6 this other drainage, which in turn flows into Main
7 Canyon. Main Canyon is also an intermittent stream with
8 certain perennial reaches. But there's no live water,
9 surface wise, in the vicinity of the project.
10 Groundwater is a great depth at the project, as far as is
11 known from exploration drilling nearby.

12 And all of this information was verified and
13 mentioned to the Division of Water Quality when we
14 consulted with them on the groundwater discharge permit
15 applicability. That being said, there's also a
16 commitment that if at a future time during operations any
17 other water sources were found, consultation would begin
18 again. That water would be dealt with. But in any case,
19 that's the first level, the site conditions and what they
20 say about the potential for water impacts.

21 On top of that is what Earth Energy proposed to
22 do. Most of the facility, as a few people have
23 mentioned, will be contained. Runoff from the pit areas,
24 from the processing area, which is the blue area up here,
25 from the topsoil storage areas, from the roads, will all

1 be internally draining. They will be bermed, ditched,
2 whatever -- several other control structures, which we'll
3 talk about in a second. But the initial layout of the
4 project was purposely designed to prevent runoff, to
5 prevent the discharge of process water -- water being
6 used for supply to the process, there's a small amount of
7 water used there -- that will be contained and recycled.
8 It's a closed system. In the event of storm water --
9 obviously there is snow, there is rain -- most of the
10 area will run off to the pit or to the control
11 structures.

12 The only other -- the only exception to that is
13 the out slopes of these overburdened storage piles, and
14 these would be the triangular shapes here. Those are
15 structures that are not fully contained and will not
16 drain back to the pit. However, there are -- they're
17 hard to see on this figure -- but there are structures
18 that are designed at the toes of these to capture runoff,
19 to treat any sediments that may be -- or to capture any
20 sediments as well, and that water can then be discharged,
21 but it will be treated.

22 One of the questions that came up was with total
23 dissolved solids and whether that material would be
24 conveying total dissolved solids. Because this isn't a
25 leeching system, because there aren't marine shales

1 involved, it's essentially -- the runoff may be sediment
2 laden, but it won't be salty. That was one reason why
3 the Willow Creek listing is not necessarily relevant, in
4 addition to the distance considerations. So essentially,
5 then, what JBR did was to work with Earth Energy and
6 suggest some of these treatment, erosion control
7 features, and that sort of thing. To go another step
8 further to say it's one thing we all know. It's one
9 thing to say, "Well, this will all be contained. We
10 aren't going to have a failure." But what if there is a
11 failure? Runoff, even in the event their process water
12 pond fails -- even though that's unlikely, even though
13 it's designed properly, it's lined, et cetera -- what
14 happens if that still occurs? That runoff then, in turn,
15 still has a few other layers of safety built into it. It
16 wouldn't run off down the slope because of the way the
17 property is designed and because of the treatment
18 structures that we have.

19 But then you could say, again, "Well, what if
20 those fail, or on these out slope areas that are closer
21 to the waterways, what if they fail? What if sediment
22 escapes? What if runoff escapes? And runoff, by the
23 way, is allowed to escape. It's not meant to be stored
24 entirely. It just needs to be treated. The water
25 quality needs to be able to be sufficient so that water

1 quality is not degraded, and on downstream stream
2 standards are not exceeded.

3 And that's where the design of the interburden
4 storage areas comes into play. And I won't go all the
5 way into it, but they have designed encapsulation of any
6 of the process sands. The materials that would be placed
7 on the surface and exposed to runoff would be larger
8 rock, not susceptible to erosion by rainfall. Mass
9 wasting is taken care of in the geotechnical design of
10 those structures. I'm not geotechnical engineer, so I
11 won't go into it. But that was a consideration. They
12 don't want those to fail. There are compaction isolation
13 slope considerations to minimize the risk of that -- of
14 those types of water quality impacts.

15 That being said again -- and I think John
16 mentioned it -- these are ephemeral drainages. Yes, they
17 flow; yes they convey runoff. But it's quite a distance
18 to live water. And then as John mentioned, it's 25 miles
19 to the confluence of Willow Creek, which is the impaired
20 perennial stream in the state of Utah's 303(d) list, and
21 then another 38 miles to the Green River. So it's a
22 little bit different of an issue than if you are right on
23 top of a perennial stream.

24 So that's a brief, sort of, summary of the level
25 of analysis that we looked at, and the types of

1 protective measures that Earth Energy has not only
2 designed and committed to do, but has also, by Oil, Gas
3 and Mining regulations must -- must comply with. If
4 anything that's written in the plan doesn't function the
5 way that we intend it to, or the way that we assumed it
6 would function when we did our analysis, they are
7 obligated to revise -- revise the structure, revise the
8 maintenance, revise the mining process, whatever. And
9 that goes for the other regulations that we also dealt
10 with but that we're not really dealing with here. So I
11 think that's an adequate summary of...

12 MR. DAVIS: It is. Thanks, Karla. I do have
13 a -- let me follow up with a couple of questions, though.

14 John Weisheit mentioned that, based on
15 conversations he'd had with Jane Belnap, that they did
16 not believe that the reclamation of the -- the use of the
17 topsoil and the revegetation would be successful out
18 there.

19 Do you have any comments on that?

20 MS. KNOOP: Well, I'm not a biologist, but I
21 do -- you know, we do deal with reclamation of projects
22 throughout the state. So I can say just a little bit
23 about that.

24 It is true that any time you salvage topsoil,
25 you are taking it out of its had natural state. There's

1 some amount of compaction, change in organic matter,
2 content, et cetera, but reclamation happens all the time.
3 Earth Energy followed the Division of Oil, Gas and
4 Mining's reclamation guidelines in preparing the plan.
5 We have protective measures of the topsoil pile itself.
6 It will be confined, kept away from oncoming runoff. It
7 will not be eroding. I believe we called for interim
8 vegetation to be placed on the topsoil pile, which will
9 help keep some of the biological activity going. We also
10 are incorporating, or placing on top, the salvaged,
11 larger vegetation from the area.

12 So they're doing whatever they can to facilitate
13 the future reclamation. For one thing, it's in their
14 best interest to. The harder it is -- the poorer the
15 topsoil is when they go back to reclaim, the harder it is
16 to get the plants to grow on it, obviously. And they are
17 required by their oil, gas and mining permit to reclaim
18 the vegetation to a certain extent. They will not be
19 able to get their bond back until they do that. So it's
20 in their best interest to do as good a job as they can
21 with the reclamation. And they are trying to maintain
22 the -- by their plan, maintain the topsoil in the best
23 quality that it can be, because it can be a tough thing
24 to revegetate.

25 MR. WEISHEIT: Could I ask one question about

1 that?

2 MR. DAVIS: Ask the chairman.

3 THE HEARING OFFICER: Well, I think we're trying
4 to keep that very open among the parties.

5 MR. DAVIS: As long as we don't get into
6 cross-examination. I wasn't planning on doing that.

7 THE HEARING OFFICER: Go ahead and ask your
8 question.

9 MR. WEISHEIT: Well, you know, I notice the
10 vegetation list includes shrubs, forbs, and grass. But a
11 lot of that is wooded. There's a significant amount of
12 wood.

13 My question is: Why are you not replacing the
14 Douglas fir and the gambel oak that's growing there,
15 which is roost habitat for the Mexican spotted owl.

16 MS. KNOOP: I didn't derive the species list
17 myself, but I do know that the Division of Wildlife
18 Resources, as well as the biologists from Oil, Gas and
19 Mining were consulted, and the species list was derived
20 based on those consultations. As far as roosting
21 habitat, and all that, I can't really address that.

22 The one other thing that I wanted to say, and I
23 don't know Jane Belnap, but I have read some of her work
24 and am familiar with it. And she has a big following in
25 the State and a lot of knowledge. The soils that we are

1 dealing with at Earth Energy are a lot different type of
2 soil than are over a lot of the Colorado Plateau. We've
3 worked with enough reclamation projects, as has Oil, Gas
4 and Mining, to know that there are some very, very
5 difficult areas to reseed. And this, I wouldn't count,
6 based on what I've seen in that same -- in that same
7 area, so. They get a little more rainfall. They are not
8 the saline soils like we have so much of in southeastern
9 Utah. And even on the Uinta Basin, they are not the
10 mancoos shale.

11 MR. WEISHEIT: The reason why -- you know, the
12 river guides have a nickname for the Tavaputs. We call
13 it the "wind tunnel." And it's because it's always
14 blowing, and it's quite severe up there. And, you know,
15 it might be better soil, it might not be as saline, but
16 it's going through very rigorous environmental stresses
17 at 8000 feet. So you're not going to -- well, why isn't
18 DOGM replacing -- or requiring replacement of trees for
19 shade and perching for wildlife?

20 THE HEARING OFFICER: And I'm not sure that's a
21 question for Karla as much as it is a question for our
22 specialist within --

23 MR. WEISHEIT: Like I said at the beginning, we
24 want to understand why you are doing these things, you
25 know. These are public lands and I think we -- you know,

1 it's fair to ask these questions.

2 THE HEARING OFFICER: Well, let's put it this
3 way: Your question's been asked, and I may give the
4 Division a little bit of time to answer that. But I have
5 some questions of my own, and I'm going to take the
6 prerogative as the hearing officer to do that.

7 So is there anything more you want to say,
8 Karla?

9 MS. KNOOP: No, I don't think so. I mean, I'm
10 happy to answer your questions, but...

11 THE HEARING OFFICER: John, what about you?

12 MR. DAVIS: No, I'm through. Thank you, Mr.
13 Baza.

14 THE HEARING OFFICER: Okay. Before we go
15 further, I have a couple more questions for the court
16 reporter.

17 (A discussion was held between the Hearing Officer and
18 the reporter off the record.)

19 THE HEARING OFFICER: All right. In order to
20 set this up, we had to beg a court reporter to come in
21 and do this. Now, she's got a schedule she's got to keep
22 later on today. So I'm going to try to do the rest of
23 this and include some questions from the audience and try
24 to finish up by 4:15, 4:20 at the latest. So as long as
25 everyone recognizes that's the target I'm shooting for,

1 we're hoping to wrap up by then.

2 I had a couple of questions that I jotted down.
3 And maybe after I ask my questions, then the Division, if
4 you wanted to try to answer anything else that
5 Mr. Weisheit had.

6 One of the things, Mr. Weisheit, that this
7 informal conference requires is that we have a definitive
8 statement from you and your group as to what relief you
9 are seeking. In other words, the Division has made a
10 decision, at least a partial decision, on the permit
11 application. We feel it's complete. We feel it's
12 technically adequate. But I know that you are interested
13 in more information. And having worked with
14 technologists and scientists for many years, I know you
15 can always ask for more information. So at some point we
16 have to make a decision based on what we have available
17 to us.

18 I guess I'm asking you: Based on what we have
19 before us today, or maybe with a small amount of
20 additional information, would you see that your group
21 wants this permit issued, or does your group want this
22 permit denied?

23 MR. WEISHEIT: Denied.

24 THE HEARING OFFICER: Denied. Okay. Fair
25 enough.

1 Let me ask some questions of the Division.

2 Is our analysis -- do we make a concerted and

3 significant effort to determine what erosion control and

4 runoff plans have been made by the applicant? Is that

5 part of our analysis?

6 MR. BAKER: Yes, it is.

7 THE HEARING OFFICER: Could you explain that a

8 little more, maybe go into some explanation as to how we

9 do that?

10 MR. BAKER: I would, perhaps, have Tom Munson

11 address that, if he could.

12 THE HEARING OFFICER: Okay.

13 MR. MUNSON: My name is Tom Munson. I thought

14 I'd get out of doing this, but I guess I don't.

15 Karla gave a good explanation of the hydrology

16 of this area. It's an ephemeral drainage system,

17 basically, where all these drainages would tend to flow

18 in response to storm events. And so we tend to look at

19 that. That would be the first thing we'd look at. I

20 like to look at things in a global perspective in terms

21 of, you know, we're not dealing with the Colorado River

22 here, we're dealing with very small ephemeral drainages.

23 And there's about 12 inches of rainfall a year in this

24 environment.

25 There were some identified seeps and springs in

1 the area, but when they went out and did some
2 reconnaissance, they could not even find the water right
3 that had been applied for. It did not even exist. There
4 was no evidence of flowing water right in that area. So
5 there's some question regarding that, whether that even
6 exists.

7 So when I look at a project like this, I look at
8 the disturbances associated with it. And here we have
9 waste dumps, and we have a pit, and we have some
10 facilities. And so the first thing I would do is, I
11 would want to know what sort of controls are you going to
12 have in place to prevent this disturbance or any runoff
13 or erosion or sediment from leaving the site or not being
14 treated before leaving the site. And so in this
15 particular instance, everything that's within the pit and
16 the facilities is self-contained; basically, it all
17 drains within itself. So we wanted to make sure that
18 there was ditches and ponds, and things of that nature
19 within that system, that were properly designed that
20 would contain that runoff.

21 In terms of groundwater and surface water
22 permits, there are other agencies involved, as well as
23 myself. I'm more looking at the surface disturbance
24 aspect of it and how they're going to treat the runoff
25 and erosion associated with that project.

1 And within that facilities area, they're using
2 what -- we use storm events in terms of -- it's a design
3 parameter where you take a certain amount of rainfall
4 that falls within a period of time, whether that's 24
5 hours, whether it's 6 hours. And we go to a NOAA, a
6 national ascribed chart, that gives us inches of rainfall
7 that would fall within that particular -- in this
8 particular situation, a ten-year event. It's a
9 probability, and -- the probability of that storm
10 occurring once every ten years. And so we use those
11 designs, generally as a rule of thumb, to design our
12 sediment ponds, things that would capture all the runoff
13 and any kind of erosion from that site. And we would
14 size them according to those design events.

15 So there is a commitment in the plan that those
16 sediment ponds, those ditches, and everything, meet those
17 design events. And although we don't have specific
18 designs within the plan, there's a commitment within the
19 plan that, prior to any kind of construction occurring,
20 that detailed engineering drawings will be supplied to
21 the Division for our review. And if those are not
22 adequate, we would not allow the operation to go forward.
23 We would make sure that those designs were adequate. But
24 we allowed it to go forward, based on the fact that they
25 had that very specific commitment in the plan.

1 Runoff from the waste rock sites are being
2 controlled basically by the -- there's going to be a lot
3 of coarse, rocky material. And I don't know -- you know,
4 maybe all of all you would think of a talus slope -- you
5 know, a rocky talus slope -- as being very similar. So
6 you tend -- in those type of situations, the main thing
7 that causes erosion and sediment and runoff of sediment
8 or topsoil, which is a very valuable resource, would be
9 raindrop impact. Well, here you have a lot of rocky
10 cover on top of this material on these waste rock dumps,
11 so any raindrop impact from any kind of thunderstorm, or
12 whatever, would tend to be treated, in a sense, because
13 it wouldn't just catch the soil particles. It would
14 be -- I look at the analogy in the desert. If any of you
15 have ever been in the desert and look at a desert
16 pavement. If you look at the desert soils very closely,
17 you'll see they are covered with a lot of rock -- little
18 tiny pebbles, okay. And that's what prevents it from
19 running off. That's what prevents erosion from
20 occurring.

21 So when you have a mine site, we're concerned
22 about exposed soils. So generally what we'd like to have
23 them do is put some sort of a coarse material rock, or
24 something of that nature, over something where you have a
25 slope like this. And it would prevent that raindrop

1 impact dislodging of any sediment. And then at the toe
2 of each of these waste rock dumps, there are sediment
3 structures that will capture any potential runoff. I
4 feel very certain that it would be very little, if any,
5 runoff. And because of the nature -- if you've looked at
6 some of these drainages, there's no evidence of any
7 defined channels. And most of the time when you go look
8 at any kind of a geomorphic analysis or -- a geohydrology
9 analysis of the drainage, or a formation of drainage, you
10 look for defined channels to determine the amount of
11 runoff over a thousand years.

12 In this situation, there's very little evidence
13 of any defined channels. So I feel pretty certain and I
14 feel pretty secure that there will be very little runoff
15 in regards to this particular operation as it's designed.
16 And that's how I kind I went about my analysis.

17 THE HEARING OFFICER: So Tom -- oh, sorry.

18 MR. ALDER: You were probably going to follow up
19 with this.

20 I was just going to ask if you would mention the
21 storm water control plan.

22 MR. MUNSON: Oh, the storm water control plan is
23 the S -- well the SWPPP. That is administered by the
24 Division of Environmental Quality. But in that
25 particular plan, there's all sorts of contingencies for

1 treatment of any kind of erosion or sediment that would
2 potentially occur during the operations that was not
3 contemplated in the plan. And so that was one that I
4 felt -- one of the strongest things that we could ask for
5 was for them to put this -- make it a part of our permit
6 and our plan. Because if you read the language of that
7 particular SWPPP, it provides a lot of safeguards,
8 monitoring, assurances, and requirements of the operator
9 to maintain this facility in an orderly manner, which
10 would preclude any kind of erosion or sediment problems.
11 And I thought that was really important. And they went
12 above and beyond in regards to that. And from our
13 perspective, that's not required by our rules.

14 THE HEARING OFFICER: Thanks, Mr. Alder, for
15 asking, because that was a good follow up.

16 Yeah -- you can go ahead and sit down. I just
17 have some process questions to ask the Division. And I
18 don't know which one of you is going to answer this, but
19 let me ask these things.

20 Tom talked about other agencies being involved
21 in this. And I think we heard during the presentation
22 that there are other agencies of government involved in
23 this. If we are in a position to analyze for the mining
24 permit under the Utah Mine Land Reclamation Act, and
25 there is a showing that they've met those requirements,

1 how is our action coordinated with some of these other
2 agencies of government? Who else is involved, and at
3 what level? Who has the final say for Earth Energy to go
4 ahead and conduct business?

5 MR. ALDER: That is a little bit of a
6 complicated question, as far as who has the final say,
7 since there are many steps and there's no mandatory way
8 that an applicant has to go through those steps. And I
9 think maybe Paul could address that from the Division's
10 point of view.

11 MR. BAKER: Well, I would quote one of the
12 rules, which says, "The approval or acceptance of the
13 complete Notice of Intention shall not relieve an
14 operator from his responsibility to comply with the
15 applicable statutes, rules, regulations, and ordinances
16 of all other agencies," is basically is what it says.

17 So we do coordinate this with the land
18 management agency, which in this case is the Trust Lands
19 Administration. We coordinate it very closely. And we
20 notify the counties that are involved. But the applicant
21 is responsible to obtain other permits that are required.

22 THE HEARING OFFICER: Mr. Weisheit mentioned the
23 Grand County Land Conditional Use Permit. You are aware
24 of that. Where are you in that process, and what is
25 required from them in order to proceed?

1 MR. CUTHBERT: Well, Grand County has a land use
2 code and a conditional use permit application, as does
3 Uintah County. In the case of Grand County, as
4 mentioned, I've been down to meet with the planning
5 department, or the planning commission, to look at those
6 requirements. We're now -- Earth Energy is now in the
7 process of compiling the information to meet the
8 regulations of its land use code. And then that will be
9 submitted. It goes through both the planning commission
10 and the commissioner's public review of that document in
11 order to operate in Grand County.

12 And as I said, the same is required for Uintah
13 County. I may add, also, that we are working -- our
14 traffic is going to be to the north into Uintah County,
15 and we have been working very closely with that county on
16 some mitigation matters, including approval of the Seep
17 Ridge Road to reduce the dust that's created by us and by
18 the other existing operations out there. But we are
19 working with the groups that are out in the region to
20 minimize the impact of our operation.

21 THE HEARING OFFICER: So having heard what
22 Mr. Baker said, and knowing that you are going through
23 this process at the local government level, I would
24 assume that your intent would not be to commence
25 operations until you had all those appropriate approvals,

1 right?

2 MR. CUTHBERT: As the regulations say, we have
3 an obligation to ensure that we have obtained all
4 required permits. And Earth Energy is committed to doing
5 that.

6 THE HEARING OFFICER: Let me go back to the
7 Division for another process question.

8 Once we approve a permit, or once a permit is
9 issued, once all the bonding and all the bells and
10 whistles are in place for this, our responsibilities do
11 not end as an agency, do they?

12 MR. BAKER: No.

13 MS. DEAN: No.

14 THE HEARING OFFICER: What kinds of things do we
15 do to make sure they are abiding by the conditions of
16 their permit?

17 MR. BAKER: The main thing we do would be to
18 conduct periodic inspections, and to compare the mine
19 plan with the operations and how they're conducting those
20 operations. And if they're not in compliance with the
21 mine plan, then we could potentially take enforcement
22 action, which would include a fine, and to compel them to
23 comply with the plan.

24 THE HEARING OFFICER: So in the example of what
25 Mr. Munson was talking about, let's say you do have a

1 storm event and you have a condition where they weren't
2 able to control erosion, sediment, or runoff in the mine
3 site. Would something like that result in a violation?

4 MR. BAKER: It could potentially, yes. We would
5 look at -- there are various things we would look at with
6 regard to that. If it's an extreme storm event,
7 something beyond what the mine was designed for, we would
8 take that into consideration.

9 THE HEARING OFFICER: Okay. Mr. Alder, the next
10 question might be for you, and that is: Once we have
11 this informal conference, once I render a decision, there
12 is an opportunity for appeal. And I believe that appeal,
13 as I mentioned earlier, was to the Board of Oil, Gas and
14 Mining.

15 If such an appeal is made, does the Board look
16 at all the information fresh, or do they rely on the
17 record that we're keeping at this level?

18 MR. ALDER: No, it would be -- I think that's an
19 important question that I wanted to be sure it was
20 addressed, since that question was asked specifically as
21 to whether or not you could keep this hearing open. This
22 is an appeal by specific parties of a decision that's
23 been made. The decision to approve the notice of
24 intention is different than the approval to go forward.
25 In other words, once that decision has been made final,

1 then it can be appealed. You don't have to wait to get
2 the surety and get all the other permits in place, then
3 go forward. I don't think it would be within the rights
4 of the Division, without the consent of the applicant, to
5 put everything on hold. They have a right to proceed, to
6 get a final decision, and require that anybody who
7 opposes that final decision either file a protest with
8 the Board or let it go forward.

9 So there's an obligation within ten days of your
10 decision on this informal conference to file a request
11 before the Board.

12 The hearing before the Board would be a formal
13 adjudication. There would be a need for the parties to
14 be represented by counsel. Witnesses would be sworn.
15 Testimony would be given. Evidence would be presented,
16 and specific issues would be addressed by the witnesses.
17 So it's a much -- a little more technical and difficult
18 burden. But that's the right of the applicant after this
19 hearing today.

20 So I don't think it would be possible to hold
21 the administrative record open. I think that's a
22 confusion that has happened because there are so many
23 federal hearings and federal things that allow for that
24 type of administrative review. This is not that type of
25 proceeding.

1 THE HEARING OFFICER: And as I read our own
2 rules, it says that subsequent to this hearing that we're
3 having today, that I'm supposed to make a decision within
4 a reasonable length of time. There's no specific date on
5 that, it just says "a reasonable length of time."

6 MR. ALDER: I believe that's correct, although
7 the Administrative Procedures Act also governs these
8 kinds of hearings, and I think it provides for 30 days.

9 THE HEARING OFFICER: Okay. Just so you know,
10 in my side conversation with the court reporter, I don't
11 feel like I would want to make a decision without the
12 advantage of having a written transcript from this
13 hearing. So she indicates to me that that's probably
14 going to take about ten working days, or two weeks, to
15 deliver that. So I would have to assume that sometime
16 within that two-week to 30-day period is when I would be
17 making a decision on this matter.

18 But that's different than having the
19 administrative record remain open, isn't it?

20 MR. ALDER: Yes.

21 THE HEARING OFFICER: Okay.

22 All right, folks. Knowing that we have a little
23 bit of time left -- and I'd like you to remember that
24 what we're trying to do here is determine: Did the
25 Division meet its requirement to analyze for all the

1 necessary items in issuing this permit? And if you have
2 questions along the line of what else the Division needs
3 to do or how they should do it, I'd like to hear those.
4 Because I do want to be inclusive in making sure that all
5 that information is presented. But I don't want to get
6 into a battle of opinions here as to whether you met some
7 perceived standard or not.

8 So knowing that, let's start out with a few
9 questions and see.

10 Yes.

11 MR. ALDER: If I could, just before you go to
12 that point, to address one more question by Mr. Weisheit,
13 he asked whether or not -- or maybe it was one of the
14 other petitioners -- asked about what the standard would
15 be for a significant revision, or a notice of a revision
16 in the permit application. And I just wanted to address
17 that.

18 There is a statute that says that if there is a
19 revision in the permit operations for any reason, that
20 the applicant is obligated to apply for an amendment to
21 that or a change to that notice of intention. And
22 whether that is treated as an amendment or as a
23 significant revision depends on the nature of the change.

24 A "significant revision" means that it would be
25 just like a brand new application. So if they decided to

1 go to a larger size or to use a different chemical
2 process, or do a different kind of remediation, then they
3 would have to go through an entire review of all the
4 impacts, just like they did for the initial impact.

5 The question that was resolved with Sierra Club
6 and Southern Utah Wilderness Alliance was that when they
7 start the west pit, that will be considered a significant
8 revision, and notice will be given, and an opportunity
9 for further analysis will be taken.

10 So the answer to your question is a little bit
11 vague. The language is in the definitions of amendment.
12 And it just says, "An amendment is an insignificant
13 change in the approved Notice of Intention."

14 I think in this circumstance of this particular
15 mine, most changes, particularly where you are expanding
16 the size to include the west pit, would be considered a
17 significant revision. We tried to make that assurance,
18 but we made it expressly clear in this case. I don't
19 know if that helps you.

20 THE HEARING OFFICER: Thank you.

21 You've had your hand up a long time. Go ahead.

22 MS. HENRY: My name is Deb Henry. I'm a civil
23 engineer the (inaudible) engineering. I have a question
24 as far as Earth Energy Resources trucking these materials
25 out of that area. As Juliana said, there are 19 trips in

1 each direction. For 350 days, on average, for seven
2 years is 93,000 trips a truck is going to be making on
3 dirt roads in that area. And I'm concerned that Earth
4 Energy Resources is not taking into consideration the
5 damage they are going to be doing to those roads. And
6 once they do and they inevitably go bankrupt, I'm worried
7 that the resources aren't going to be in place in an
8 escrow account of some sort for an area to be reclaimed.

9 So I'm wondering what is in place right now to
10 protect us in the event that Earth Energy Resources
11 cannot fulfill that responsibility that we are allowing
12 them with this permit.

13 THE HEARING OFFICER: So to maybe paraphrase it
14 and put it in the form of a question -- I want to make
15 sure I've got this right.

16 Did the Division analyze for transportation
17 issues in regards to the mine permit? Is that a
18 responsibility of ours?

19 MS. DEAN: Off the mine area, no, it is not a
20 responsibility of ours.

21 THE HEARING OFFICER: So does it get analyzed,
22 and who would do it?

23 MS. DEAN: I don't know. It would definitely
24 not be us. I'm not sure if it is analyzed.

25 MS. HENRY: As those roads deteriorate, who pays

1 for that?

2 MS. DEAN: Well, it's a county road, so it's
3 maintained by the county. But the trucks would be just
4 like any other licensed vehicles. Some with taxes --

5 MS. HENRY: -- work on construction projects,
6 those roads are going to be destroyed by all those
7 trucks. And I don't think that it should be the
8 counties' responsibility to be burdened with that -- I
9 mean, with tax revenue being what it is.

10 MS. DEAN: Well again, that's not something that
11 we have analyzed. There is a lot of existing traffic
12 there. But if you are concerned, that might be something
13 that you would like to talk to the county about or some
14 other agency that has that authority.

15 MS. HENRY: I just want to make sure that the
16 permit represents what we expect of Earth Energy
17 Resources, as far as fulfilling responsibility for the
18 taxpayers.

19 THE HEARING OFFICER: I would say that any
20 mining operation, we know involves transportation issues.
21 And I'm not aware that in any minerals activity we have
22 made an analysis of those transportation issues.

23 MS. DEAN: Right. That's not our authority.
24 But John...

25 MR. ANDREWS: I can respond to some extent on

1 that. The Seep Ridge Road, which is the primary road --
2 access road into this area, is a county road. Typically,
3 traffic issues are addressed at the conditional use
4 permit processes in the county. It's my understanding
5 that Uintah County has been, because there are a number
6 of other oil and gas operations that are utilizing the
7 road. There have been requests, that have been fulfilled
8 by various companies operating, to contribute to a fund.
9 But there is also a state level mechanism called the
10 "Mineral Lease Revenue Sharing Account" that funnels oil
11 and gas revenue from federal lands back specifically to
12 transportation infrastructure.

13 At this point Uintah County is in the process of
14 reengineering that road using those federal mineral
15 leasing funds, money contributed by other companies that
16 are operated in the area, and the like, as well as state
17 funding for the upgrade of the road. So the main issue
18 is that there is a state law mechanism for the recycling
19 of revenue generated out of mineral operations to
20 maintain transportation infrastructure.

21 So that's just the background. If you'd like
22 more information, I'd be happy to share it.

23 THE HEARING OFFICER: Yes, sir.

24 MR. CATANO: Mr. Cuthbert, my concern
25 actually --

1 THE HEARING OFFICER: Would you state your name,
2 please?

3 MR. CATANO: It's James Catano, C-A-T-A-N-O, age
4 59, Salt Lake City. I'm a writer and a reporter.

5 My concern is for the profitability of your
6 company; because by extension, if your company doesn't
7 make any money, the School Trust Fund doesn't get any
8 money -- all these agencies through taxation, that never
9 materializes.

10 What I've seen here is relatively small -- this
11 is my gut going off here -- I've seen a relatively small
12 area with a very limited resource to be exploited. I
13 realize it involves a very extensive and expensive
14 process compared to other forms of fossil fuel
15 extraction. And you've got a product that has to be
16 treated both on site, and a product that has to be hauled
17 in vehicles, rather than put in a pipeline, and hauled to
18 a refinery where you have an additional expensive
19 process.

20 What I'm concerned is that this project on paper
21 will not pan out, per se, as a viable project. Maybe
22 it's a loss leader. Maybe it's a pilot project for
23 something going on in Canada. Maybe their government's
24 tax subsidies and write-offs, that this is part of it.
25 But my gut tells me that this project doesn't wash. So I

1 would -- at some point -- maybe this is not the proper
2 venue for it, because it's out of -- perhaps out of venue
3 of this department. But before I want you messing around
4 in my state and possibly making environmental impacts, I
5 want to know if this is a legitimate project.

6 MR. CUTHBERT: All right. Well, I do think the
7 economic analysis is outside of this particular meeting.
8 But certainly, you know, we are not undertaking this
9 project to go bankrupt. And there's been extensive
10 analysis of our costs of doing this and the revenues that
11 are available, as well as projections, as difficult as
12 they are, of future oil prices and everything else. The
13 economics on this project are reasonable to begin.
14 Obviously, this is the first deployment. We'd like to
15 see more occur as we prove our technology and prove that
16 we can extract bitumen in a responsible manner, and that
17 includes both Canada and the US, and potentially around
18 the world where other oil sands deposits exist.

19 But we're not doing this one as a loss leader,
20 or anything like that. The economics do stand on their
21 own.

22 MR. CATANO: If this project proves viable,
23 could then this technology be exported to the Athabasca
24 project and mitigate some of the harsh environmental
25 impacts up there? Or maybe you could just try it up

1 there?

2 MR. CUTHBERT: Again, certainly that's in our
3 plans. That's more long range. But yes, if we can find
4 ways to use that in Athabasca, or find ways that we can
5 help to make the existing operations better, we would
6 certainly be anxious to do that.

7 You know, right now I can't comment on the plans
8 about the operators in Athabasca. But once we, again,
9 show the process does work, as we've explained, and that
10 we were able to extract the material without creating the
11 tailing response, and things like that, I think there
12 will be interest in our process up there.

13 THE HEARING OFFICER: I saw another hand over
14 here first.

15 Yes.

16 MS. O'NEILL: My name is Andrea O'Neill
17 (phonetic.) I'm just a concerned citizen. This is
18 really directed towards you. I only know what I know
19 from this meeting. And it seems like you've covered your
20 bases. You've done all the right things. The water
21 resource, it wouldn't have gone to another place, it
22 seems. No storm problems. No issues. Far enough away
23 from the big rivers. All of those things intact.

24 But I've heard that it's four hours of
25 electricity that you would be deriving from this project?

1 That's a massive project -- massive and expensive in many
2 ways. All things going as they are, why would Utah allow
3 you to do this for four hours of electricity?

4 MR. CUTHBERT: Well, there's a contribution by a
5 multitude of sources when you look at the energy balance
6 for the United States. And there's, I don't know, tens
7 or hundreds of thousands of oil and gas wells around the
8 country that are each producing a fraction of the energy
9 that the country requires. And that extends from the
10 Rocky Mountains to California to the Gulf of Mexico. And
11 yes, if you look at a project in isolation, you say,
12 "Well, yeah, this is only four hours." But if you did
13 that for every project, there would probably not be, you
14 know -- at least there would be very few projects in the
15 United States that would go ahead as a meaningful source
16 of energy if you look at it on that basis.

17 MS. O'NEILL: Yeah, that would be wonderful.

18 MR. CUTHBERT: Well, look at it honestly.
19 There's wells that produce tens of barrels of oil per
20 day, or gas wells that have low flow production rates.
21 So you can say, "Well, what's the point?" But the
22 trouble is, in their totality they meet the energy demand
23 for the country. We just want to be a part of that.

24 MS. O'NEILL: So for your seven-year project,
25 all that will go on in this seven years' time, truly

1 those numbers are correct, that they're not exaggerating?
2 I mean wouldn't we really, for the benefit of four
3 hours -- if we could all just turn off and unplug our
4 houses for a day, we'd be better off than supporting...

5 MR. DAVIS: Well, the entire United States would
6 have to do that. We consume, what is it, 20 million
7 barrels of oil a day. So yeah, you take it from a macro
8 standpoint, this project contributes a very small amount
9 to that. But 20 million barrels of oil a day is a huge
10 amount of oil utilized by this country every day. And as
11 Barclay said, every project contributes to that. The
12 more projects we can keep in the United States, the
13 better off we are on our balance of trade. I don't think
14 everyone would agree to that, but I agree with you. The
15 less energy we can use, all of us, would make great
16 strides in reducing that.

17 THE HEARING OFFICER: Again, as hearing officer,
18 I'm going to exercise some prerogative here. I'm taking
19 great liberties with the concept of an informal
20 conference. And, you know, I hope that the parties will
21 accept my liberal construction here. But I think these
22 questions are valuable. I think we've got to recognize
23 that our agency does things in a public forum. The
24 things we do are open to the public. And we want to make
25 sure that we do things with full disclosure.

1 So again, I think that probably rather than a
2 debate with the operators themselves, if you have
3 specific things regarding the process, let's try to bring
4 those out.

5 Along the back row. Yes.

6 MR. DECHRISTOPHER: My name is Tim
7 DeChristopher. I'm a resident of Salt Lake City. I'm
8 also a part of Peaceful Uprising. My question is for the
9 Division regarding these last couple of comments about
10 the positive benefit -- because most of what we heard
11 from the Division today is that their analysis shows the
12 negative impacts of this project are probably
13 tolerable -- but I haven't heard from the Division of
14 whether or not it is in your limitations, or your job as
15 an agency, to be judging the positive benefits of a
16 project, and whether it actually makes it worth it for us
17 to allow an unprecedented experimental project in the
18 watershed of the Colorado River for a foreign company to
19 proceed with profits for providing four hours of oil
20 supply to this country.

21 If it's not the job of your agency, I wonder
22 which agency it is that's actually asking that question
23 of whether these projects actually make sense before they
24 go ahead.

25 And also along that lines, I'd like to know

1 whether -- if that was a factor, whether this project was
2 judged on its sole merits, or as Mr. Cuthbert was
3 suggesting, that this is a model or example for other
4 projects going forward to develop the rest of the tar
5 sands resources in the state of Utah. And if that's the
6 case, that this -- that those other benefits were
7 included.

8 I think it has to be acknowledged that a lot of
9 those other tar sands resources are on BLM land, and not
10 only on state land. And while the state agency refuses
11 to acknowledge the impacts of climate change, the BLM has
12 a clear mandate, under the Secretarial Order of 3226, to
13 weigh the impacts of climate change on any of their
14 resource management decisions. And that is something
15 that they're going ahead with. They've asked further
16 resolutions beyond Secretarial Order 3226 that further
17 define how they are going to do that, including
18 prioritizing renewable energy on their lands. A lot of
19 those renewable energy zones, according to the Governor's
20 office, overlap where a lot of the tar sands resources
21 are, in the eastern part of the state. Which, all
22 told, suggest that this project is really just a bridge
23 to nowhere. Because the rest of those tar sands are not
24 going to get developed, because they're a terrible idea
25 when it comes to weighing the consequences of climate

1 change.

2 THE HEARING OFFICER: Rather a compound question
3 for Mr. Alder.

4 MR. DAVIS: Wasn't a question. It was a speech.

5 THE HEARING OFFICER: How would you respond?

6 MR. ALDER: Let me start and first of all say
7 that, that does bring us back to the statement that I
8 made to the hearing officer at the beginning, which is
9 that this is an opportunity to review the decision of the
10 Agency with regard to this particular application, based
11 on the statutes that have been set by the state
12 legislature and the rules that have been promulgated by
13 the Board, which govern the rights of individuals to
14 develop resources within the state.

15 And if they meet the requirements -- which
16 include minimum practices for protection of water rights
17 and for reclamation, posting a bond, those things that
18 the legislature and the Division propose in its rules and
19 are required to look at to make sure that it's done in a
20 way that's considered responsible for the energy policy
21 of the state, as it's been set by the various statutes --
22 our obligation is to review the application and see that
23 it has met those standards, and to do so in a way that is
24 professional, that takes into account scientific
25 evaluation by experts of the various issues -- water,

1 air -- that are within the jurisdiction. And those that
2 are not within our jurisdiction are met with other
3 agencies' jurisdiction as their mandates are set by the
4 legislature.

5 So though a question, such as Mr. DeChristopher
6 poses, might be appropriate at a forum of the energy
7 office or the Governor's task force on energy policy,
8 that is not the purpose of this hearing. This hearing is
9 to determine whether -- for this specific application;
10 for these lands; for this mining proposal with an
11 operator who is willing to take the financial risk and
12 believes it's profitable; and the Division has determined
13 that if a bond has been set and is going to be posted,
14 that that bond will be sufficient to meet all the
15 environmental damages -- whether that was done correctly.

16 MR. DECHRISTOPHER: So the answer to my question
17 is no, that --

18 MR. ALDER: No, Mr. DeChristopher, that's not a
19 fair summary of what I said. The answer to the question
20 is: It's not the question for this hearing.

21 THE HEARING OFFICER: I'm going to take one more
22 question.

23 MR. DECHRISTOPHER: -- whether it was worth it.

24 MR. ALDER: No, it is not. You're right.

25 MR. DECHRISTOPHER: Okay. Thank you.

1 THE HEARING OFFICER: I'm going to take one more
2 question. I think fellow in the colored shirt.

3 MR. EHRBAR: I'm Hans Ehrbar, professor at the
4 University of Utah. And I don't want to -- it's more a
5 declaration. I'm not trying to be critical of the
6 process here.

7 I think other people here are doing the process.
8 But I, as a citizen, I'm appalled that this is the
9 process. Because this is probably not going to be the
10 only tar sand development in Utah. If you look at the
11 Alberta tar sands, it has completely altered the whole
12 state. And that Utah does not have a process where its
13 citizenry can intelligently decide about the benefits and
14 the costs of this tar sand project as a whole, and
15 whether they want to get away -- or go ahead with it, but
16 this is just -- for us, having several different agencies
17 who do just small parts of it, I find is appalling. And
18 so don't take this as a criticism of you personally, but
19 I just want to put this out there.

20 THE HEARING OFFICER: Well, I said one more
21 question, but that wasn't a question. I'm going to shut
22 it down. I'm sorry. We do have to respect the needs of
23 our court reporter.

24 And I guess what I'm going to ask for is: We
25 only have about five minutes to do this, but I'd like a

1 closing summary from each of the three parties that are
2 party to this hearing.

3 Why don't we start with the Division.

4 MR. ALDER: I think I probably said as much in
5 my response to Mr. DeChristopher's question as needs to
6 be said.

7 I would maybe make the point that I think
8 there's a lot of confusion about the process and the
9 facts. This is not the Canadian tar sands development.
10 This is a different process. It's a different location,
11 and it's a different kind of impact. And I would
12 respectfully ask that the Board -- I mean that the --
13 you, as hearing officer, and the individuals who are
14 challenging this, analyze it in the same detailed,
15 careful way that the Division did.

16 The Division agrees with the statement by the
17 petitioners that they want a careful and deliberate
18 decision. And that's what the Division felt that they
19 did. And they want to meet all the mandates, including
20 the protection of the environment, and I think that they
21 think they did that. And anything that specifically
22 addresses those issues, the Division cares a great deal
23 about and believes that they've been addressing those.
24 And that's probably all I have to say.

25 THE HEARING OFFICER: Mr. Weisheit, do you have

1 a closing comment?

2 MR. WEISHEIT: First of all, I'd like to say
3 thank you to everybody for coming and for this
4 opportunity.

5 I would like to say that this is the beginning
6 of something that could be much bigger because of the
7 potential of oils, heavy oils, in Colorado, Utah, and
8 Wyoming. It is inappropriate to do this in the Colorado
9 Plateau, period. Because there is not enough water to
10 develop these resources, and so why start?

11 It is better to hold back, be patient with our
12 state and federal legislatures, because we are at an
13 impasse on our climate change legislation. It took years
14 to get the Wilderness Act, the Clean Water Act, the
15 Endangered Species Act. It's probably going to take
16 years to get climate change legislation.

17 But we need -- as a society, we need to make
18 these decisions because we are facing not only an energy
19 crisis but a water crisis. And allowing these projects
20 to go forward without resolving these fundamental
21 important questions is wrong.

22 And I am aware of the constraints of the
23 Division. I'm aware of the interests of EER. But as a
24 society, this is inappropriate. It should not go
25 forward.

1 If I have to talk to the Governor, then I'm
2 going to. If I have to talk to Congress, I am not going
3 to stop here today. This is -- it cannot go forward.

4 Do you -- would you like to say something?

5 MS. WILLIAMS: May I just clarify our questions.

6 THE HEARING OFFICER: Sure.

7 MS. WILLIAMS: Juliana Williams.

8 THE HEARING OFFICER: Take just a couple of
9 minutes, though.

10 MS. WILLIAMS: Yeah, this will be quick.

11 THE HEARING OFFICER: All right.

12 MS. WILLIAMS: I think there are a couple of
13 questions we brought up in our statements that were not
14 addressed, that we would just like to re-articulate. One
15 is that we would like clarification on Earth Energy
16 Resource's plan to coordinate with the counties about the
17 access roads. You mentioned you had been communicating
18 with them. We'd like to know what kind of communication,
19 or what the plan is dealing with the strain on the roads,
20 the maintenance, and the suppression of dust.

21 I would like clarification on assuring long-term
22 maintenance and monitoring of the mine after the
23 operations cease -- after those seven years. Because,
24 you know, things happen over time, and we want to make
25 sure that these permanent structures are continuing to

1 not harm the water quality and the air quality of this
2 area.

3 We would like clarification on the testing of
4 the water quality that is in the small pit right now. It
5 was not addressed whether or not that had been tested for
6 contamination above and beyond natural levels.

7 And then we would also like clarification,
8 finally, on the testing of collected precipitation and
9 water that's stored. We want to make sure that is tested
10 for contamination before it is sprayed for dust
11 suppression.

12 THE HEARING OFFICER: Okay.

13 MR. CUTHBERT: So I think I'd like to reiterate
14 that, as Earth Energy Resources, we have been working
15 diligently with DOGM in the development of our plans for
16 the PR Springs site. We have been through the
17 regulations in detail and through extensive consultation
18 with DOGM, making sure that we do address all the
19 requirements to commence a mining operation out there,
20 and will continue to do so.

21 As several have mentioned, it's not in our best
22 interest to create a liability that is left there. We're
23 quite excited about the process we've developed, and the
24 fact that we can extract bitumen from oil sands in a far
25 more responsible manner than has been done to date. And

1 I think that's something that -- to be admired in the
2 country -- in the countries in North America where you
3 have that opportunity to develop the technologies and to
4 deploy them. As I say, we're excited to be in Utah. We
5 think that this will be a long-term project that will
6 benefit the state and its citizens, and we will continue
7 to work with all the different agencies that we need to,
8 to make sure that things happen as they're supposed to.

9 THE HEARING OFFICER: Okay. Well, I thank
10 everyone for being here today. This process is not an
11 easy one. It's hardly simple. And I know that the
12 Division staff has spent numerous hours, in terms of
13 evaluating and analyzing this project. And it's not over
14 yet.

15 As I mentioned before, I'm going to await a
16 transcript of the proceedings. You can probably expect a
17 decision from me on this hearing within the next two
18 weeks to 30 days. And that decision document will also
19 indicate what the rights of appeal are to the Board of
20 Oil, Gas and Mining, so that you can understand what
21 those are.

22 I don't really have a lot more to say. Again, I
23 respect everybody's time and effort to be here. I know
24 there were probably some additional questions that some
25 folks had. My sense was that if those questions can be

1 asked of staff immediately following this, to hang around
2 and try to do that.

3 But as far as the hearing itself, I'm going to
4 call the hearing today closed. And know that a decision
5 will be rendered within the time period I've indicated.
6 So again, thank you very much. And I appreciate your
7 time.

8 (The proceedings concluded at 4:21 p.m.)
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CERTIFICATE

State of Utah)
 ss.
County of Salt Lake)

I, Michelle Mallonee, a Registered
Professional Reporter and Notary Public in and for the
State of Utah, do hereby certify:

That the proceedings of said matter was
reported by me in stenotype and thereafter transcribed
into typewritten form;

That the same constitutes a true and correct
transcription of said proceedings so taken and
transcribed;

I further certify that I am not of kin or
otherwise associated with any of the parties of said
cause of action, and that I am not interested in the
event thereof.



Michelle Mallonee
Michelle Mallonee, RPR, CSR